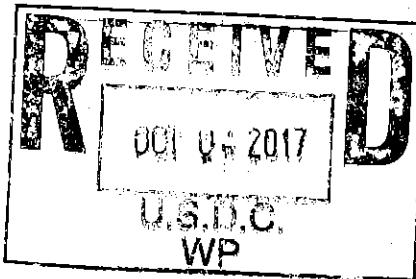


17CV 7971

John Vidurek, Kimberly Vidurek Plaintiffs  
1 South Drive  
Hyde Park, New York, 12539



IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

CASE NO. 15-CV-2175

**ACTION AT LAW<sup>1</sup>**

**John Vidurek & Kimberly Vidurek Plaintiffs, in pro per**

-v-

IRS; a/k/a irs; 1111 Constitution Avenue, NW; Washington, DC 20224

John Koskinen, Commissioner; IRS; 1111 Constitution Avenue, NW; Washington, DC 20224

Brenda Dial (assumed robo-signer)<sup>2</sup>; PO Box 9941, STOP 1005; Ogden, UT 84409

John/Jane Doe, Tax Examiner MS 4388; ID# 1000099691, PO Box 9941; Ogden, UT 84409

J. Melendez; ID# 0708622; PO Box 1640; Ogden, UT 84402-1640

Maryellen Benecke, Revenue Agent; ID# 1001022543; IRS; 191 Main St; Poughkeepsie NY. 12601

Linda Piack, Revenue Agent; IRS; ID# 1001023196; 300 Commerce Drive; New Windsor, NY. 12553

Jeanette Willet, Group Manager; IRS; 300 Commerce Drive; New Windsor, NY. 12553

Daniel H. Schulman, Pres, CEO; Pay Pal Holdings Inc.; 2211 North First St; San Jose, CA 95131

Guy Chiarello, Pres; First Data Merchant Serv Corp; 5775 DTC Blvd No Greenwood Village CO 80111

Mary Madden, Pres, CEO; Hudson Valley Credit Union; 159 Barnegat Rd; Poughkeepsie NY. 12601

Michael J. Quinn, Pres, CEO; Rhinebeck Savings Bank; 2 Jefferson Plaza; Poughkeepsie NY. 12601

Jack Dorsey, Pres, CEO; Square Inc; 1455 Market St; San Francisco, CA 94103

**Defendants**

<sup>1</sup> AT LAW: Blacks 4th This phrase is used to point out that a thing is to be done according to the course of the common law; it is distinguished from a proceeding in equity.

<sup>2</sup> "Robo-signing" is a term used by consumer advocates to describe the robotic process of the mass production of false and forged execution of debt assignments, satisfactions, affidavits, and other legal documents related to legal matters being created by persons without knowledge of the facts being attested to. If sworn to it also includes accusations of notary fraud wherein the notaries pre- and/or post-notarize the affidavits and signatures of so-called robo-signers.

17CV7971

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

Federal Building Courthouse; 300 Quarropas Street; White Plains, NY 10601-4150

**FILE ON DEMAND UNDER PENALTY OF LAW**

Attention Clerk:

You are directed to file the attached document unimpeded as required by law without charge<sup>1</sup>.

**18 USC §2076** Whoever, being a clerk willfully refuses or neglects to make or forward any report, certificate, statement, or document as required by law, shall be fined under this title or imprisoned not more than one year, or both. **18 USC §1512(b)**; Whoever obstructs or impedes any official proceeding shall be fined under this title or imprisoned not more than 20 years, or both.

**18 USC § 2071** - Concealment, removal, or mutilation generally (a) Whoever willfully and unlawfully conceals, removes, mutilates, obliterates, or destroys, or attempts to do so, or, with intent to do so takes and carries away any record, proceeding, map, book, paper, document, or other thing, filed or deposited with any clerk or officer of any court of the United States, or in any public office, or with any judicial or public officer of the United States, shall be fined under this title or imprisoned not more than three years, or both. (b) Whoever, having the custody of any such record, proceeding, map, book, document, paper, or other thing, willfully and unlawfully conceals, removes, mutilates, obliterates, falsifies, or destroys the same, shall be fined under this title or imprisoned not more than three years, or both; and shall forfeit his office and be disqualified from holding any office under the United States. As used in this subsection, the term "office" does not include the office held by any person as a retired officer of the Armed Forces of the United States.

**18 U.S. Code § 1001** - Statements or entries generally: (a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (2) makes any materially false, fictitious, or fraudulent statement or representation; or (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years.

**CRIME TO INTERCEPT**

<sup>1</sup> American Jurisprudence Constitutional Law §326 "Free Justice and Open Courts; Remedy for All Injuries - In most of the state Constitutions there are provisions, varying slightly in terms, which stipulate that justice shall be administered to all without delay or denial, without sale or prejudice, and that the courts shall always be open to all alike. These provisions are based largely upon the Magna Charta, chap. 40, which provides; "We will sell to no man. We will not deny to any man either justice or right." The chief purpose of the Magna Charta provision was to prohibit the King from selling justice by imposing fees on litigants through his courts and to deal a death blow to the attendant venal and disgraceful practices of a corrupt judiciary in demanding oppressive gratuities for giving or withholding decisions in pending causes. It has been appropriately said that in a free government the doors of litigation are already wide open and must constantly remain so. The extent of the constitutional provision has been regarded as broader than the original confines of Magna Charta, and such constitutional provision has been held to prohibit the selling of justice not merely by magistrates but by the State itself"; "Plaintiff should not be charged fees, or costs for the lawful and constitutional right to petition this court in this matter in which he is entitled to relief, as it appears that the filing fee rule was originally implemented for fictitious and subjects of the State and should not be applied to the plaintiff who is a natural individual and entitled to relief." Hale v. Henkel)(201 U.S. 43)

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**UNITED STATES DISTRICT COURT**  
**FOR THE SOUTHERN DISTRICT OF NEW YORK**

Federal Building Courthouse; 300 Quarropas Street; White Plains, NY 10601-4150

John Vidurek, Kimberly Vidurek

Plaintiffs

- Against -

John Koskinen, John Koskinen, IRS, Brenda Dial, John/Jane Doe, J. Melendez, Maryellen Benecke, Linda Piack, Jeanette Willet, Daniel H. Schulman, Guy Chiarello, Mary Madden, Michael J. Quinn, Jack Dorsey

Defendants

Jurisdiction:<sup>3</sup> Court of Record, under the rules of Common Law<sup>4</sup>

Case no. 15-CV-2175  
Magistrate:

**SUMMONS**

An Action at Law<sup>5</sup> has been filed against you. Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached action. Motions in order to avoid an answer are not permitted under common law; If you fail to respond, judgment by default will be entered against you for the relief demanded in the action. You also must file your answer with the court.

SEAL

Date: October 2, 2017

<sup>3</sup> "Court must prove on the record, all jurisdiction facts related to the jurisdiction asserted." Lantanav. Hopper, 102 F2d 188; Chicagov. New York, 37 F Supp 150.; "The law requires proof of jurisdiction to appear on the record of the administrative agency and all administrative proceedings" Hagans v. Lavine, 415 U.S. 528

<sup>4</sup> "A Court of Record is a judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it, and proceeding according to the course of common law, its acts and proceedings being enrolled for a perpetual memorial". Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689.

<sup>5</sup> AT LAW: Blacks 4th This phrase is used to point out that a thing is to be done according to the course of the common law; it is distinguished from a proceeding in equity

**UNITED STATES DISTRICT COURT**  
**FOR THE SOUTHERN DISTRICT OF NEW YORK**

Federal Building Courthouse; 300 Quarropas Street; White Plains, NY 10601-4150

5

John and Kimberly Vidurek

Plaintiff(s)

Jurisdiction: Court of Record, under  
the rules of Common Law<sup>1</sup>

- Against -

John Koskinen, Et al

Defendants

Case no. 15-CV-2175

Magistrate:

**VERIFIED ACTION AT LAW  
W/2 AFFIDAVITS ATTACHED**

We, John and Kimberly Vidurek, both People<sup>2</sup> of New York State, hereinafter plaintiff(s), in this court of record, proceeding according to the common law<sup>3</sup> hereby sues for damages and charges, against IRS, John Koskinen, Brenda Dial, John/Jane Doe,  
10 J. Melendez, Maryellen Benecke, Linda Piack, Jeanette Willet, Daniel H. Schulman, Guy Chiarello, Mary Madden, Michael J. Quinn, Jack Dorsey; hereinafter defendants, for: Conspiracy against rights:<sup>4</sup>, RICO, Mail Fraud, Violating plaintiff(s)' unalienable

<sup>1</sup> "A Court of Record is a judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it, and proceeding according to the course of common law, its acts and proceedings being enrolled for a perpetual memorial". Jones v. Jones, 188 Mo. App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689.

<sup>2</sup> PEOPLE: People are supreme, not the state. [Waring vs. the Mayor of Savannah, 60 Georgiaat 93]; The state cannot diminish rights of the people. [Hertado v. California, 100 US 516]; Preamble to the US and NY Constitutions - We the people ... do ordain and establish this Constitution...; ...at the Revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country, but they are sovereigns without subjects...with none to govern but themselves... [CHISHOLM v. GEORGIA (US) 2 Dall 419, 454, 1 L Ed 440, 455, 2 DALL (1793) pp471-472]: The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative. [Lansing v. Smith, 4 Wend. 9 (N.Y.) (1829), 21 Am. Dec. 89 10C Const. Law Sec. 298; 18 C Em.Dom. Sec. 3, 228; 37 C Nav.Wat. Sec. 219; Nuls Sec. 167; 48 C Wharves Sec. 3, 7].

<sup>3</sup> Amendment VII "In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law."

<sup>4</sup> 18 USC §241; CONSPIRACY AGAINST RIGHTS: If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State in the free exercise or enjoyment of any right they shall be fined under this title or imprisoned not more than ten years, or both

right of due process<sup>5</sup> under color of law<sup>6</sup> protected by Amendment V.<sup>7</sup>, Trespass on the Case, Fraud, Negligence, Vindictive Recklessness, Abuse of Process, Harassment and

15 Right to be Secure in Papers.

## REACTIVATION OF ACTION AT LAW

Plaintiff(s) proceeds under Rule 60(b) (2) new evidence and the right of trial under Rule 59(b)(3) fraud, misrepresentation and misconduct by defendants; A Principle of  
20 common law is that for every injury there must be a remedy and content trumps form.

Defendants served plaintiff(s) a Notice of Federal Tax Liens in the amount of \$124,762.43. Plaintiff(s) answered defendants by filing an Action on May 28, 2013 in the New York State Supreme Court, Dutchess County, after which the United States Attorney moved to Federal Court Case# 15-CV-2175. Defendants defaulted as plaintiff

25 was preparing default judgment papers, defendants sent plaintiff a determination letter stating plaintiff was not required to file tax return and a Certificate of Release of Lien in the amount of \$124,762.43. Plaintiff satisfied with the defendants good faith act decided to not pursue damages, see exhibits 18-20, 25 & 26. As the foregoing will attest to defendants had a hidden agenda and in fact "did not act in good faith as thought" therein  
30 the reason for reopening this case, additionally no judgement was entered in this case.

On or about July 17, 2016 plaintiff(s) received a certified letter from defendants demanding the payment of an un-verified bill of \$2,745.05 (see exhibit 32). Again on

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<sup>5</sup> No man shall be deprived of his property without being heard in his own defense. [Kinney vs. Beverly 2 HEN. & M(VA) 318, 336].

<sup>6</sup> 18 USC §242: DEPRIVATION OF RIGHTS UNDER COLOR OF LAW: Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State the deprivation of any rights shall be fined under this title or imprisoned not more than one year, or both;

<sup>7</sup> Amendment V of the Constitution of the United States provides: "No person shall---be deprived of life, liberty, or property without due process of law. A similar provision exists in all the state constitutions; the phrases "due course of law", and the "law of the land" are sometimes used; but all three of these phrases have the same meaning and that applies conformity with the ancient and customary laws of the English people or laws indicated by parliament; {Davidson V. New Orleans 96 U.S. 97, 24, L Ed 616}.

May 24, 2017 plaintiff(s) received a Notice from defendants Notice of collection for a debt of \$482 (see exhibit 33). From November 23, 2016 thru August 23, 2017  
35 defendants have unlawfully seized \$702.60, (see exhibit 42) from plaintiff(s)' Social Security without plaintiff(s)' consent without lawful authority and without due process. These repugnant fraudulent actions, constant harassment and abuse of process, under the color of law are the catalyst for this reactivation of this Action at Law. Plaintiff(s) proceeds under Rule 60(b) (2) new evidence and the right of trial under Rule 59(b); (3)  
40 fraud, misrepresentation and misconduct by defendants; Plaintiff(s) has suffered six (6) years of harassment, badgering and stress from the defendants relentless paper terrorism with the intent to destroy for political reasons.

On May 10, 2013 the news reported that the IRS apologized for flagging Tea Party groups for a higher level of scrutiny than other organizations during the 2012 election.  
45 Upon information and belief John Vidurek, hereinafter plaintiff(s), is a target of the aforesaid scrutiny, a vindictive act against plaintiff(s) because plaintiff(s) is a tea party and other liberty groups organizer. Plaintiff(s) believe that IRS agents have singled plaintiff(s) out for political reasons with intent to punish.

The IRS in recent years released a “near-complete list” of the political organizations it  
50 targeted for additional scrutiny, according to the Washington Times. The agency released the names of 426 organizations it targeted in the probe. The names of an additional 40 organizations were withheld because they have opted out of being part of the class-action suit against the IRS. Of the 426 organizations on the list, 60 have the word “tea” in their name and 33 have the word “patriot.” Eight groups have a reference  
55 to the Constitution in their names. Thirteen groups have “912” in their names.

Plaintiff(s) claims against the defendants concern a fraudulent filing of an instrument under color of law in violation of USC 18 §241<sup>8</sup>, §242<sup>9</sup> and USC 42 §1983<sup>10</sup>, §1985<sup>11</sup>, §1986<sup>12</sup> therefore the defendants were not acting in any official capacity when they

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<sup>8</sup> **18, USC 241; CONSPIRACY AGAINST RIGHTS:** If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured – They shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death.

<sup>9</sup> **18 U.S. Code § 242 - Deprivation of rights under color of law:** Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

<sup>10</sup> **42 USC 1983; CIVIL ACTION FOR DEPRIVATION OF RIGHTS:** Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

<sup>11</sup> **42 USC 1985(3); CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS:** Depriving persons of rights or privileges: If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

<sup>12</sup> **42 USC §1986 - Action for neglect to prevent -** Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; and if the death of any party be caused by any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefor, and may recover not exceeding \$5,000 damages therein, for the benefit of the widow of the deceased, if there be one, and if

perpetrated their scheme and thereby not entitled to be defended by the U.S. Attorney.

- 60 In reality the U.S. Attorney should be representing the plaintiff(s).

## OATHS & BONDS

Plaintiff(s) accepts the oaths<sup>13</sup> and bonds of all the officers of this court to support and uphold the Constitution for the United States of America.

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## DUE PROCESS

Plaintiff(s) rejects and denies all motions for a hearing before defendants answer this action thru a sworn written response in a timely manner<sup>14</sup> (30 days) or defendant defaults. Summary proceedings<sup>15</sup> are out of the regular course of the common law<sup>16</sup>,

- 70 destructive to the interest of justice and cannot allow for more time to answer without good cause as per rule 6. If the Magistrates deems a good cause (s)he can notify plaintiff(s) of the cause and the amount of additional time granted defendant(s).

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there be no widow, then for the benefit of the next of kin of the deceased. But no action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued.

<sup>13</sup> **Oaths: Article VI:** "This Constitution, and the laws of the United States... shall be the supreme law of the land; and the judges in every State shall be bound thereby; anything in the Constitution or laws of any State to the contrary notwithstanding... All executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution."

<sup>14</sup> "**An Affidavit if not contested in a timely manner** is considered undisputed facts as a matter of law." Morris vs. NCR, 44 SW2d 433 Morris v National Cash Register, 44 SW2d 433

<sup>15</sup> **Summary proceeding:** Blacks 4<sup>th</sup> Any proceeding by which a controversy is settled, case disposed of, or trial conducted, in a prompt and simple manner, without the aid of a jury, without presentment or indictment, or in other respects out of the regular course of the common law. Sweet see Phillips v. Phillips, 8 N.J.L. 122.

<sup>16</sup> **Law in its regular course** of administration through courts of justice is due process. [Leeper vs. Texas, 139, U.S. 462, II SUP CT. 577, 35 L ED 225]. By the law of the land is more clearly intended the general law, a law which hears before it condemns; which proceeds upon inquiry and renders judgment only after trial. [Dartmouth College Case, 4 Wheat, U.S. 518, 4 ED 629]. Law in its regular course of administration through courts of justice is due process. [Leeper vs. Texas, 139, U.S. 462, II SUP CT. 577, 35 L ED 225]. It implies conformity with the natural inherent principles of justice and forbids the taking of one's property without compensation, and requires that no one shall be condemned in person or property without opportunity to be heard. [Holden vs. Hardy, 169, U.S. 366, 18 SUP. CT. 383, 42 L ED. 780].

## JURISDICTION

75 The Court is to take Judicial Cognizance<sup>17</sup> that plaintiff(s) have opened an Article III Court of Record for cause<sup>18</sup> and lawful remedy<sup>19</sup> under Article III Section 2<sup>20</sup> as is plaintiff(s) unalienable right, see Memorandum of Law in Support of Jurisdiction, attached. This Court of Record in the Federal Southern District Court is the proper venue for hearing this case because the assault upon plaintiff(s)' for exercising their  
80 unalienable rights took place in Dutchess County.

## LAW OF THE CASE

The Court is to take Judicial Cognizance of the law of the case, whereas the Tribunal is bound to act without having it proved in evidence.

85 ◆ **THE GENERAL RULE**                            16<sup>th</sup> American Jurisprudence, Second Edition:  
*"Jurisprudence, by which all judges are bound by oath, is the science of the law. By science here, is understood that connection of truths which is founded on principles either evident in themselves, or capable of demonstration; a collection of truths of the same kind, arranged in methodical order. In a more confined sense, jurisprudence is the practical science of giving a wise interpretation to the laws, and making a just application of them to all cases as they arise. In this sense, it is the habit of judging the*  
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<sup>17</sup> **JUDICIAL COGNIZANCE.** Judicial notice, or knowledge upon which a judge is bound to act without having it proved in evidence. [Black's Law Dictionary, 5th Edition, page 760.] Jurisdiction is the authority by which courts and judicial officers take cognizance of and decide cases. [Board of Trustees of Firemen's Relief and Pension Fund of City of Marietta v. Brooks, 179 Okl. 600, 67 P.2d 4, 6; Morrow v. Corbin, 122 Tex. 553, 62 S.W.2d 641; State v. Barnett, 110 Vt. 221, 3 A.2d 521, 526;]

<sup>18</sup> **FOR CAUSE** Means for reasons which law and public policy recognize as sufficient warrant for removal and such cause is "legal cause" and not merely a cause which the appointing power in the exercise of discretion may deem sufficient. State ex rel. Nagle v. Sullivan, 98 Mont. 425, 40 P.2d 995, 998, 99 A.L.R. 321.

<sup>19</sup> **LEGAL REMEDY** A remedy available, under the particular circumstances of the case, in a court of law, as distinguished from a remedy available only in equity. See State v. Snead, 105 Tenn. 711, 58 S.W. 1070.

<sup>20</sup> **Article III Section 2:** Judicial power shall extend to all cases, in law and equity, arising under this Constitution.

*same questions in the same manner, and by this course of judgments forming precedents*<sup>21</sup>.

95     16th American Jurisprudence, 2nd Section 177 – “*The general rule is that an unconstitutional statute, though having the form and name of law, is in reality no law, but is wholly void and ineffective for any purpose; since unconstitutionality dates from the time of its enactment, and not merely from the date of the decision so branding it. An unconstitutional law, in legal contemplation, is as inoperative as if it had never been passed. Such a statute leaves the question that it purports to settle just as it would be had the statute not been enacted. Since an unconstitutional law is void, the general principles follow that it imposes no duties, confers no rights, creates no office, bestows no power or authority on anyone, affords no protection, and justifies no acts performed under it ... A void act cannot be legally consistent with a valid one. An unconstitutional law cannot operate to supersede any existing valid law. Indeed, insofar as a statute runs counter to the fundamental law of the land, it is superseded thereby.*”

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110     16th American Jurisprudence 2d, Section 177 late 2nd, section 256 - “*No one is bound to obey an unconstitutional law and no courts are bound to enforce it. The general rule is that an unconstitutional statute, though having the form and the name of law, is in reality no law, but is wholly void, and ineffective for any purpose, since unconstitutionality dates from the time of its enactment, and not merely from the date of the decision so branding it.*”

◆ **INTERNAL REVENUE ENFORCEMENT** of summons is provided for under 26 U.S. Code §7604 and rule making authority under 27 CFR<sup>22</sup> for person summoned.

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<sup>21</sup> 1 Ayl. Pand. 3 Toull. Dr. Civ. Fr. tit. prel. s. 1, n. 1, 12, 99; Merl. Rep. h. t.; 19 Amer. Jurist, 3.

<sup>22</sup> Authorities (CFR) This is a list of parts within the Code of Federal Regulations for which this US Code section provides rulemaking authority. This list is taken from the Parallel Table of Authorities and Rules provided by GPO [Government Printing Office]. 27 CFR - Alcohol, Tobacco Products and Firearms, 27 CFR Part 70 - PROCEDURE AND ADMINISTRATION

115        26 USC §7604 Enforcement of summons (b) *Enforcement Whenever any person summoned under section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602 neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required, the Secretary may apply to the judge of the district court or to a United States Commissioner for the district within which the person so summoned resides or is found for an attachment against him as for a contempt. See exhibit 43 titled “Provisions of the Internal Revenue Code” one page attached.*

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- 1) 26 USC §6420<sup>23</sup> referenced in §7604 provides for enforcement of summons for person liable for tax on gasoline used for farming purposes only if used in carrying on a trade or business on a farm situated in the United States.

125        Plaintiff(s) has never conducted trade or business on a farm situated in the United States; therefore plaintiff(s) is not liable for tax under 26 USC §6420 nor does the IRS have any enforcement of summons authority over the plaintiff(s).

- 130        a. 26 USC §4081<sup>24</sup> referenced in §6420 provides for enforcement of summons for person liable for tax on fuel for removal, entry, or sale from any refinery, terminal or entry into the United States for consumption, use, or warehousing.

Plaintiff(s) has never conducted a business for the removal, entry, or sale from any refinery, terminal or entry into the United States for consumption, use, or warehousing of fuel; therefore plaintiff(s) is not liable for taxes

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<sup>23</sup> **Gasoline used on farms** (c) Meaning of terms for purposes of this section- (1) Use on a farm for farming purposes Gasoline shall be treated as used on a farm for farming purposes only if used (A) in carrying on a trade or business, (B) on a farm situated in the United States, and (C) for farming purposes. (2) Farm The term “farm” includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.; (e) Applicable laws (1) In general - All provisions of law, including penalties, applicable in respect of the tax imposed by section 4081 shall, insofar as applicable and not inconsistent with this section, apply in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of overpayments of the tax so imposed. (2) Examination of books and witnesses - For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

<sup>24</sup> **26 U.S. Code § 4081 Imposition of tax** (a) Tax imposed (1) Tax on removal, entry, or sale (A) In general There is hereby imposed a tax at the rate specified in paragraph (2) on-(i) the removal of a taxable fuel from any refinery, (ii) the removal of a taxable fuel from any terminal, (iii) the entry into the United States of any taxable fuel for consumption, use, or warehousing, and (iv) the sale of a taxable fuel to any person who is not registered under section 4101 unless there was a prior taxable removal or entry of such fuel under clause (i), (ii), or (iii).

under 26 USC §4081 nor does the IRS have any enforcement of summons authority over the plaintiff(s).

- 2) 26 USC §6421<sup>25</sup> referenced in §7604 provides for enforcement of summons for person liable for tax on gasoline used for certain non-highway purposes, by local transit systems, or sold for certain exempt purposes.

Plaintiff(s) has never conducted a business providing fuel for certain non-highway purposes, local transit systems or certain exempt purposes; therefore plaintiff(s) is not liable for taxes under 26 USC §6421 nor does the IRS have any enforcement of summons authority over the plaintiff(s).

- 3) 26 USC §6427<sup>26</sup> referenced in §7604 provides for enforcement of summons for the sale of any fuel not used for taxable purposes and tobacco products and firearms under 27 CFR.

Plaintiff(s) has never conducted a business for the sale of any fuel, tobacco products or firearms; therefore plaintiff(s) is not liable for taxes under 26 U.S. Code §6427 nor does the IRS have any enforcement of summons authority over the plaintiff(s).

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<sup>25</sup> (a) Non-highway uses - Except as provided in subsection (i), if gasoline is used in an off-highway business use, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons so used by the rate at which tax was imposed on such gasoline under section 4081. Except as provided in paragraph (2) of subsection (f) of this section, in the case of gasoline used as a fuel in an aircraft, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons of gasoline so used by the rate at which tax was imposed on such gasoline under section 4081.; (g) Applicable laws (1) In general - All provisions of law, including penalties, applicable in respect to the tax imposed by section 4081 shall, insofar as applicable and not inconsistent with this section, apply in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of overpayments of the tax so imposed. (2) Examination of books and witnesses - For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

<sup>26</sup> **26 USC §6427 Fuels not used for taxable purposes** (a) Nontaxable uses Except as provided in subsection (k), if tax has been imposed under paragraph (2) or (3) of section 4041(a) or section 4041(c) on the sale of any fuel and the purchaser uses such fuel other than for the use for which sold, or resells such fuel, the Secretary shall pay (without interest) to him an amount equal to - (1) the amount of tax imposed on the sale of the fuel to him, reduced by (2) if he uses the fuel, the amount of tax which would have been imposed under section 4041 on such use if no tax under section 4041 had been imposed on the sale of the fuel.

4) 26 USC §7602<sup>27</sup> referenced in §7604 provides for enforcement of summons for the examination of books and witnesses for determining the liability of any person relating to tobacco products and cigarette papers and tubes

Plaintiff(s) has never conducted a business for the sale of tobacco products, cigarette papers or tubes; therefore plaintiff(s) is not liable for taxes under 26 U.S. Code §7602 nor does the IRS have any enforcement of summons authority over the plaintiff(s).

a. 26 USC §4041<sup>28</sup> referenced in §6427 provides for the imposition of tax on diesel fuels, kerosene and certain liquids used as a fuel in aviation.

Plaintiff(s) has never conducted a business for the sale of diesel fuels, kerosene and Certain liquids used as a fuel in aviation; therefore plaintiff(s) is not liable for taxes under 26 U.S. Code §4041 nor does the IRS have any enforcement of summons authority over the plaintiff(s).

5) 26 USC §6601 provides for interest on underpayment, nonpayment, or extensions, regulations for §6601 that authorizes the collection of interest is under 27 CFR for Alcohol, Tobacco and Firearms.

Plaintiff(s) do not sell, transport or warehouse Alcohol, Tobacco or Firearms; therefore plaintiff(s) are not liable for interest under §6601.

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<sup>27</sup> 26 USC §7602 Examination of books and witnesses (a) Authority to summon, etc. For the purpose of ascertaining the correctness of any return, making a return where none has been made, determining the liability of any person for any internal revenue tax or the liability at law or in equity of any transferee or fiduciary of any person in respect of any internal revenue tax, or collecting any such liability, the Secretary is authorized (1) To examine any books, papers, records, or other data which may be relevant or material to such inquiry; This is a list of parts within the Code of Federal Regulations for which this US Code section provides rulemaking authority. This list is taken from the Parallel Table of Authorities and Rules provided by GPO [Government Printing Office]. 27 CFR - Alcohol, Tobacco Products and Firearms; Part 46 - MISCELLANEOUS REGULATIONS RELATING TO TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES.

<sup>28</sup> 26 USC §4041 Imposition of tax (a) Diesel fuel and special motor fuels (1) Tax on diesel fuel and kerosene in certain cases (A) In general There is hereby imposed a tax on any liquid other than gasoline (as defined in section 4083) - (c) Certain liquids used as a fuel in aviation

6) 26 USC §6651 provides for penalties on underpayment, nonpayment, or extensions,  
170 regulations for §6651 that authorizes the collection of penalties is under 27 CFR for  
Alcohol, Tobacco and Firearms.

Plaintiff(s) do not sell, transport or warehouse Alcohol, Tobacco or  
Firearms; therefore plaintiff(s) are not liable for interest under §6601.

## SAFE HARBOR PRIVACY PRINCIPLES<sup>29</sup>

175 The Safe Harbor Privacy Principles states "*individuals must have the ability to opt out  
of the collection and forward transfer of the data to third parties*". Let this action serve  
as a second; opt out demand. The right to recover damages for invasion of personal  
privacy is well established under U.S. common law. - Use of personal information in a  
manner inconsistent with the safe harbor principles can give rise to legal liability under  
180 a number of different legal theories. For example, both the transferring data controller  
and the individuals affected could sue the safe harbor organization which fails to honor  
its safe harbor commitments for misrepresentation. According to the Restatement of the  
Law, Second, Torts:

Defendants have fraudulently<sup>30</sup> concealed<sup>31</sup> from plaintiff(s)' under fiction of law<sup>32</sup>, that  
185 they have been spying on plaintiff(s)' financial activities and have reported plaintiff(s)'

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<sup>29</sup> **Safe Harbor Privacy Principles** - (1) Notice - Individuals must be informed that their data is being collected and about how it will be used. (2) Choice - Individuals must have the ability to opt out of the collection and forward transfer of the data to third parties. (3) Onward Transfer - Transfers of data to third parties may only occur to other organizations that follow adequate data protection principles. (4) Security - Reasonable efforts must be made to prevent loss of collected information.(5) Data Integrity - Data must be relevant and reliable for the purpose it was collected for. (6) Access - Individuals must be able to access information held about them, and correct or delete it if it is inaccurate. (7) Enforcement - There must be effective means of enforcing these rules.

<sup>30</sup> "Fraud" means an intentional misrepresentation, deception or concealment of a material fact known to the person with the intent to deprive another person of his or her rights or property or to otherwise injure another person.

<sup>31</sup> **Safe Harbor Privacy Principles** - (1) Notice - Individuals must be informed that their data is being collected and about how it will be used. (2) Choice - Individuals must have the ability to opt out of the collection and forward transfer of the data to third parties. (3) Onward Transfer - Transfers of data to third parties may only occur to other organizations that follow adequate data protection principles. (4) Security - Reasonable efforts must be made to prevent loss of collected information.(5) Data Integrity - Data must be relevant and reliable for the purpose it was collected for. (6) Access - Individuals must be able to access information held about them, and correct or delete it if it is inaccurate. (7) Enforcement - There must be effective means of enforcing these rules.

personal pecuniary activities to a third party, IRS, without permission or notification of the plaintiff(s).

190 **Amendment IV** "*The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.*"

195 There is a Maxim - "for every injury there must be a remedy", we have been injured and defendants have trespassed upon the case in violation of plaintiff(s)' unalienable rights, and the safe harbor principles<sup>33</sup>.

Any communications with financial institutions sharing plaintiff(s)(s)' papers (financial data) without a warrant upon probable cause and supported by Oath would be a violation of plaintiffs' unalienable right protected under the 5<sup>th</sup> Amendment and Safe Harbor Privacy Principles.

200 Plaintiff(s) has not participated in any commerce that Congress has the authority to make laws and regulate. The Internal Revenue has no authority under 26 U.S. Code §7602 to summons plaintiff(s)' financial information without due process. Financial institutions have no authority to collect and forward plaintiff(s)' data to the IRS under 26 USC §7604.

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<sup>32</sup> FICTION OF LAW. Something known to be false is assumed to be true. [Ryan v. Motor Credit Co., 130 N.J.Eq. 531, 23 A.2d 607, 621] ... that statutes which would deprive a citizen of the rights of person or property without a regular trial, according to the course and usage of common law, would not be the law of the land. [Hoke vs. Henderson, 15, N.C.15,25 AM Dec 677].

<sup>33</sup> **Safe Harbor Privacy Principles** - (1) Notice - Individuals must be informed that their data is being collected and about how it will be used. (2) Choice - Individuals must have the ability to opt out of the collection and forward transfer of the data to third parties. (3) Onward Transfer - Transfers of data to third parties may only occur to other organizations that follow adequate data protection principles. (4) Security - Reasonable efforts must be made to prevent loss of collected information.(5) Data Integrity - Data must be relevant and reliable for the purpose it was collected for. (6) Access - Individuals must be able to access information held about them, and correct or delete it if it is inaccurate. (7) Enforcement - There must be effective means of enforcing these rules.

205 Any financial institution that fails to honor its safe harbor commitments shared plaintiff(s)' financial information conspired with the IRS to violate plaintiff(s)' unalienable right of privacy.

IRS Privacy Act Notice 609, see exhibit 45, which accompanies all IRS Summons, claiming IRS's authority to require Financial Institutions (banks) turning over 210 plaintiff(s) private and personal financial data. In said Notice the IRS claims a legal right to ask for financial data from financial institutions under 26 USC §6001<sup>34</sup> but for Employers who keep records, collect, and report on tips for employees. Compliance for employers found under 26 USC §6053(a)<sup>35</sup> and compliance for employees is found under 26 USC §6053(c)<sup>36</sup>. Also referenced is 26 USC §6011<sup>37</sup> which details compliance 215 with collection and reporting of tips; and 26 USC §6012<sup>38</sup> details compliance for self-reporting gross income.

220 Clearly §6001, §6011 and §6012 gives no authority to the IRS to demand plaintiff(s)' financial data from financial institutions but from employers, and employees. Financial data from financial institutions require a warrant upon probable cause, supported by Oath and a wet ink signature of a judge.

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<sup>34</sup> 26 USC §6001 Notice or regulations requiring records, statements, and special returns: Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title. The only records which an employer shall be required to keep under this section in connection with charged tips shall be charge receipts, records necessary to comply with section 6053(c), and copies of statements furnished by employees under section 6053(a).

<sup>35</sup> 26 USC §6053 - Reporting of tips: (a) Reports by employees; Every employee who, in the course of his employment by an employer, receives in any calendar month tips which are wages (as defined in section 3121(a) or section 3401(a)) or which are compensation (as defined in section 3231(e)) shall report all such tips in one or more written statements furnished to his employer on or before the 10th day following such month. Such statements shall be furnished by the employee under such regulations, at such other times before such 10th day, and in such form and manner, as may be prescribed by the Secretary.

<sup>36</sup> 26 USC §6053 - Reporting of tips: (c) Reporting requirements relating to certain large food or beverage establishments.

<sup>37</sup> 26 USC §6011 - General requirement of return, statement, or list (a) General rule; When required by regulations prescribed by the Secretary any person made liable for any tax imposed by this title, or with respect to the collection thereof, shall make a return or statement according to the forms and regulations prescribed by the Secretary. Every person required to make a return or statement shall include therein the information required by such forms or regulations.

<sup>38</sup> 26 USC §6012 - Persons required to make returns of income; (a) General ruleReturns with respect to income taxes under subtitle A shall be made by the following:

Furthermore, authorities for enforcement is found under Title 27 for Alcohol, Tobacco Products and Firearms.

225     42 USC 1983<sup>39</sup> Every person who, under color of any statute<sup>40</sup>, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights ... shall be liable to the party injured in an action at law<sup>41</sup>. The defendants have implemented an un-lawful intrusion upon our seclusion<sup>42</sup>.

230     The monitoring of plaintiff(s)' accounts by the defendants is a violation of plaintiff(s)' unalienable rights protected and secured by Amendments IV<sup>43</sup> and V<sup>44</sup> thereby inflicting the following injuries upon us: (1) Extortion, (2) intrusion upon our privacy, (3) trespass, (4) breach of trust, (5) violation of our unalienable rights, (6) violation of safe harbor principles, (7) emotional distress

235     Use of personal information in a manner inconsistent with the safe harbor principles can give rise to legal liability under a number of different legal theories. For example, both

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<sup>39</sup> **CIVIL ACTION FOR DEPRIVATION OF RIGHTS:** Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia. [42 USC 1983]

<sup>40</sup> COLOR OF LAW -- The appearance or semblance, without the substance, of legal right. [State v. Brechler, 185 Wis. 599, 202 N.W. 144, 148] Misuse of power, possessed by virtue of state law and made possible only because wrongdoer is clothed with authority of state, is action taken under "color of state law." (Atkins v. Lanning, 415 F. Supp. 186, 188).

<sup>41</sup> AT LAW. [Bouvier's Law, 1856 Edition] This phrase is used to point out that a thing is to be done according to the course of the common law; it is distinguished from a proceeding in equity.

<sup>42</sup> Invasion of Privacy, an act of trespass which is a Common Law Tort

<sup>43</sup> Amendment IV The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

<sup>44</sup> Amendment V - No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

the transferring data controller and the individuals affected could sue the safe harbor organization which fails to honor its safe harbor commitments for misrepresentation. According to the Restatement of the Law, Second, Torts:

The defendants have implemented an un-lawful intrusion upon our seclusion<sup>45</sup>. Defendants have fraudulently<sup>46</sup> concealed<sup>47</sup> from plaintiff(s)' under fiction of law<sup>48</sup>, that they have been spying on plaintiff(s)' financial activities and have reported plaintiff(s)' personal pecuniary activities to a third party, IRS, without permission or notification of the plaintiff(s). There is a Maxim - "for every injury there must be a remedy", we have been injured and defendants have trespassed upon the case in violation of plaintiff(s)' unalienable rights, and the safe harbor principles<sup>49</sup>.

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◆ **STATUTE WITHOUT REGULATIONS HAVE NO FORCE**     "*The act of regulating; a rule or order prescribed for management or government; a regulating principle; a precept. Curless v. Watson, 180 Ind. 86, 102 N.E. 497, 499. Rule of order prescribed by superior or competent authority relating to action of those under its control.*" *State v. Miller, 33 N.M. 116, 263 P. 510, 513.*

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<sup>45</sup> Invasion of Privacy, an act of trespass which is a Common Law Tort

<sup>46</sup> "Fraud" means an intentional misrepresentation, deception or concealment of a material fact known to the person with the intent to deprive another person of his or her rights or property or to otherwise injure another person.

<sup>47</sup> **Safe Harbor Privacy Principles** - (1) Notice - Individuals must be informed that their data is being collected and about how it will be used. (2) Choice - Individuals must have the ability to opt out of the collection and forward transfer of the data to third parties. (3) Onward Transfer - Transfers of data to third parties may only occur to other organizations that follow adequate data protection principles. (4) Security - Reasonable efforts must be made to prevent loss of collected information.(5) Data Integrity - Data must be relevant and reliable for the purpose it was collected for. (6) Access - Individuals must be able to access information held about them, and correct or delete it if it is inaccurate. (7) Enforcement - There must be effective means of enforcing these rules.

<sup>48</sup> FICTION OF LAW. Something known to be false is assumed to be true. [Ryan v. Motor Credit Co., 130 N.J.Eq. 531, 23 A.2d 607, 621] ... that statutes which would deprive a citizen of the rights of person or property without a regular trial, according to the course and usage of common law, would not be the law of the land. [Hoke vs. Henderson, 15, N.C.15,25 AM Dec 677].

<sup>49</sup> **Safe Harbor Privacy Principles** - (1) Notice - Individuals must be informed that their data is being collected and about how it will be used. (2) Choice - Individuals must have the ability to opt out of the collection and forward transfer of the data to third parties. (3) Onward Transfer - Transfers of data to third parties may only occur to other organizations that follow adequate data protection principles. (4) Security - Reasonable efforts must be made to prevent loss of collected information.(5) Data Integrity - Data must be relevant and reliable for the purpose it was collected for. (6) Access - Individuals must be able to access information held about them, and correct or delete it if it is inaccurate. (7) Enforcement - There must be effective means of enforcing these rules.

“Here the statute is not complete by itself, since it merely declares the range of its operation and leaves to its progeny the means to be utilized in the effectuation of its command. But it is the statute which creates the offense of the willful removal of the labels of origin and provides the punishment for violations. The regulations, on the other hand, prescribe the identifying language of the label itself tags to their respective geographical areas. Once promulgated these regulations called for by the statute itself have the force of law, and violation thereof incur criminal prosecutions, just as if all the details had been incorporated into the Congressional language. The result is that neither the statute nor the regulations are complete without the other, and only together do they have any force, In effect, therefore, the construction of one necessarily involves the construction of the other” - U.S. v. Mersky, 361 U.S. 431 (1960)

“Under the Act, the Secretary of the Treasury is authorized to prescribe by regulation certain recordkeeping and reporting requirements for banks and other financial institutions in this country. Because it has a bearing on our treatment of some of the issues raised by the parties, we think it important to note that the Act's civil and criminal penalties attach only upon violation of regulations promulgated by the Secretary; if the Secretary were to do nothing, the Act itself would impose no penalties on anyone.” CALIFORNIA BANKERS ASSN. v. SHULTZ, 416 U.S. 21 (1974)

270 The following statutes have no force, because without regulations the Act itself could impose no authority over anyone.

§6212 Notice of deficiency has “No Regulations”

§6213 Deficiencies, petition to Tax Court has “No Regulations”

§6214 Determinations by Tax Court has “No Regulations”

275 §6215 Assessment of deficiency found by Tax Court has “No Regulations”

§6420 Gasoline used on farms has “No Regulations”

§6861 Jeopardy assessments of income, estate, and gift taxes has “No Regulations”

§6902 Provisions of special application to transferees has “No Regulations”

§7201 Attempt to evade or defeat tax has "No Regulations"  
280 §7203 Willful failure to file, supply information, or pay tax has "No Regulations"  
§7206 Fraud and false statements has "No Regulations"  
§7343 Definition of term "person" has "No Regulations"  
§7344 Extended application of penalties has "No Regulations"  
§7402 Jurisdiction of district courts has "No Regulations"  
285 §7454 Burden of proof in fraud has "No Regulations"

♦ **TITLE 26 IS NOT LAW** 26 USC 7806(b) says that Title 26 is not law, as we read: "*No inference, implication or presumption of legislative construction*<sup>50</sup> shall be drawn or made by reason of the location or grouping of any particular section or provision or portion of this title..." N.B. "legislative construction" means "law" and the following

290 United States Supreme Court unmistakably states the same conclusion: "*The fact that 26 USCS Sec. 4161(a) is located in part of Code dealing with recreational equipment and sporting goods is of little significance in determining applicability of tax to lures used in commercial fishing since Sec. 7806 provides that nothing is to be inferred from grouping or indexing of any particular section.*" -- Nordby Supply Co. v United States  
295 (1978, CA9 Wash) 572 F2d 1377, cert den 439 US 861, 58 L Ed 2d 170, 99 S Ct 182.

♦ **LEVY AND DISTRAINT** 26 USC §6331 – Levy and distraint (a) Authority of Secretary..., "Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia,..."

300 Plaintiff(s) is not an officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia.

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<sup>50</sup> **CONSTRUCTION:** Blacks 4<sup>th</sup> The process of bringing together and correlating a number of independent entities, so as to form a definite entity. The Dredge A, D.C.N.C., 217 F. 617, 631.; The process, or the art, of determining the sense, real meaning, or proper explanation of obscure or ambiguous terms or provisions in a statute ... or the application of such subject to the case in question, by reasoning in the light derived from extraneous connected laws or writings bearing upon the same or a connected matter, or by seeking and applying the probable aim and purpose of the provision. Koy v. Schneider, 110 Tex. 369, 221 S.W. 880, 884.

◆ **PLAINTIFF(S) HAVE NO FIDUCIARY RELATIONSHIP WITH DEFENDANTS** - Defendants assumed a Fiduciary Relationship and plaintiff(s) did not see a filed 56 form or a lawful assessment and yet defendants are acting like they are the trustee of plaintiff(s)' estate, who granted them permission to run a c'est que trust on plaintiff(s), there is no verified notice concerning a fiduciary relationship.

◆ **DEFENDANT HAS NOT FILED A PROOF OF CLAIM** - Plaintiff(s) did not see a filed 4490 form, there exists no verified Proof of Claim".

◆ **UNITED STATES TAX COURT** The Internal Revenue under 26 U.S. Code § 7441<sup>51</sup> fraudulently claims authority to establish a "United States Tax Court" under Article I of the Constitution which can only be referencing to Article Section 8 (9)<sup>52</sup> which states "Congress has power to constitute Tribunals (a/k/a judges)" that are inferior to the Supreme Court, which has supervisory control<sup>53</sup> over these tribunals (judges) to prohibit them from acting outside their jurisdiction, and to reverse their extra-jurisdictional acts.

Court creation powers are found in Article III Section 1<sup>54</sup> not in Article I; whereas power is vested in one Supreme Court, and "*in inferior district courts that Congress may ordain and establish*". When the tribunals of these inferior courts are "We the People" (Juries) than it is a court of record<sup>55</sup> whose decisions are not appealable<sup>56</sup>; but

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<sup>51</sup> 26 U.S. Code § 7441 - There is hereby established, under article I of the Constitution of the United States, a court of record to be known as the United States Tax Court. The members of the Tax Court shall be the chief judge and the judges of the Tax Court. The Tax Court is not an agency of, and shall be independent of, the executive branch of the Government.

<sup>52</sup> Article Section 8 (9) "The Congress shall have power to constitute tribunals inferior to the Supreme Court;"

<sup>53</sup> SUPERVISORY CONTROL: Control exercised by courts to compel inferior tribunals to act within their jurisdiction, to prohibit them from acting outside their jurisdiction, and to reverse their extra-jurisdictional acts. - State v. Superior Court of Dane County, 170 Wis. 385, 175 N.W. 927, 928.

<sup>54</sup> Article III Section 1: THE JUDICIAL POWER OF THE UNITED STATES, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior,...

<sup>55</sup> COURTS OF RECORD and COURTS NOT OF RECORD – "The former being those whose acts and judicial proceedings are enrolled, or recorded, for a perpetual memory and testimony, and which have power to fine or imprison for contempt. Error lies to their judgments, and they generally possess a seal. Courts not of record are those of inferior dignity, which have no power to fine or imprison, and in which the proceedings are not enrolled or recorded." -- 3 Bl. Comm. 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Ex parte Thistleton, 52 Cal 225; Erwin v. U.S., D.C.Ga., 37 F. 488, 2 L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231.

320 when the tribunals of these inferior courts are appointed judges they are courts not of record but courts of equity without the authority to fine or incarcerate and whose decisions can be appealed.

Congress never established nor has Congress the authority to establish a "United States Tax Court". We the People under Article III Section 1, under our own authority vested power in "One Supreme Court". Under the same Article We the People vested Congress with the power to ordain and establish District Courts that are inferior to the "One Supreme Court under equity" and "One Supreme Court" under law. In other words the tribunal of the former is comprised of appointed judges, the tribunal of the latter is comprised of We the People ourselves as jurist<sup>57</sup>.

330 ◆ **PERSONS LIABLE FOR TAX** 26 USC §5005(a) General - The distiller or importer of distilled spirits shall be liable for the taxes imposed thereon by section §5001(a)(1).

Plaintiff(s) is not a distiller or importer of distilled spirits and therefore plaintiff(s) is not a person liable for tax.

335 **PERSON:** 26 USC §7701 Definitions (a) When used in this title (26), where not otherwise distinctly expressed or manifestly incompatible with the intent thereof - (1) Person; The term "person" shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation.

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<sup>56</sup> "The decisions of a superior court may only be challenged in a court of appeal. The decisions of an inferior court are subject to collateral attack. In other words, in a superior court one may sue an inferior court directly, rather than resort to appeal to an appellate court. Decision of a court of record may not be appealed. It is binding on ALL other courts. However, no statutory or constitutional court (whether it be an appellate or supreme court) can second guess the judgment of a court of record. "The judgment of a court of record whose jurisdiction is final, is as conclusive on all the world as the judgment of this court would be. It is as conclusive on this court as it is on other courts. It puts an end to inquiry concerning the fact, by deciding it." -- Ex parte Watkins, 3 Pet., at 202-203. cited by SCHNECKLOTH v. BUSTAMONTE, 412 U.S. 218, 255 (1973).

<sup>57</sup> **Amendment VII** "In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law."

INDIVIDUAL: 26 USC §7701 Definitions (50) (d) (B) Nonresident alien - An  
340 individual is a nonresident alien if such individual is neither a citizen of the United States nor a resident of the United States.

TAXPAYER: 26 USC §7701 Definitions (14) Taxpayer - The term "taxpayer" means any person subject to any internal revenue tax.

When the term "person" is used in Title 26 it is construed under §7701(a) to mean  
345 and include an "individual". §7701(50)(d)(B) defines individual as a nonresident alien. §7701(14) states that the term "taxpayer" means any "person" subject to any internal revenue tax. Therefore as per Title 26 plaintiff(s) is not a person liable under Title 26.

42 USC 1986 Every person who, having knowledge that any of the wrongs conspired to  
350 be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured.

**INTENT<sup>58</sup> CONCERNING TAXES** Plaintiff is not a tax protester; plaintiff(s)' intent is to obey the law and willfully pays all lawful taxes and relies on the law of the  
355 land and the decisions of the "One Supreme Court"<sup>59</sup> to discern what is lawful and what is not lawful. If defendants could show that their actions are lawful I'm sure they would have responded with such laws, instead they have chosen to be silent tyrants.

When one of the People enquire of their government servant(s) information concerning the law with an intent to obey the law the servants that have been empowered to  
360 exercise that law have a legal and moral duty to speak. "*Silence can only be equated*

<sup>58</sup> INTENT: Design, resolve, or determination with which person acts. Witters v. United States, 106 F.2d 837, 840, 70 App.D.C. 316, 125 A.L.R. 1031; being a state of mind, is rarely susceptible of direct proof, but must ordinarily be inferred from the facts. State v. Walker, 109 W.Va. 351, 154 S. E. 866, 867. "Intent" in legal sense is purpose to use particular means to effect certain result; whereas, "motive" is reason which leads minds to desire that result. United Fidelity Life Ins. Co. v. Adair, Tex.Civ.App., 29 S. W.2d 940, 943.

<sup>59</sup> Article III Section 1: THE JUDICIAL POWER OF THE UNITED STATES, shall be vested in one Supreme Court

with fraud where there is a legal or moral duty to speak or where an inquiry left unanswered would be intentionally misleading" U.S. v. Tweel, 550 F.2d 297, 299. See also U.S. v. Prudden, 424 F.2d 1021, 1032; Carmine v. Bowen, 64 A. 932.

365 "The requirement of an offense committed willfully is not met, therefore, if a taxpayer has relied in good faith upon a prior decision of this court." - U.S. vs Bishop, 412, U.S. 346 (1973) at 2017.

370 "Only the rare taxpayer would be likely to know that he could refuse to produce his records to Internal Revenue Service agents." ... "Who would believe the ironic truth that cooperative taxpayer fares much worse than the individual who relies upon his Constitutional rights." - United Station vs. Dickerseon, 413 F 2D 1111.

"The legal right of a tax payer decrease the amount of what otherwise would be his taxes, or altogether avoid them, by means within the law permits, cannot be doubted..." - Gregory vs. Helvering, 293, US 465.

375 "The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. He has no duty to the state or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may tend to incriminate him. He owes no such duty to the state, since he receives nothing therefrom, beyond the protection of this life and property. His rights are such as existed by the law of the land long antecedent to the organization of the state, and in 380 accordance with the Constitution. Among his rights are a refusal to incriminate himself, and the immunity of himself and his property from arrestor seizure except under a warrant of the law. He owes nothing to the public so long as he does not trespass upon their rights...an individual may lawfully refuse to answer incriminating questions unless protected by an immunity statute..." - Hale vs. Henkel, 201 U.S. 43 at page 74.

385 "To penalize the failure to give a statement which is self-incriminatory is beyond the power of Congress." - U.S. v. Lombardo, 228 F 980.

390 "Privilege against self-incrimination is in part individual's substantive right to private conclave where he may lead a private life. Constitutional foundation underlying privilege against self-incrimination is the respect of the government, state or federal, must accord to dignity and integrity of its citizens. Fifth Amendment provision that individual cannot be compelled to be witness against himself cannot be abridged." - Miranda vs. State of Arizona, 380 US 436 (1966)

395 "... That statute(s) which would deprive a citizen of the rights of person or property without a regular trial, according to the course and usage of common law, would not be the law of the land." -- Hoke vs. Henderson, 15, N.C.15, 25 AM Dec 677.

"This willful qualification fully protects one whose refusal is made in good faith and upon grounds which entitle him to the judgment of the court before obedience is compelled." - Federal Power Commissions v. Metropolitan Edison Co. 304 U.S. 375.

400 "The claim and exercise of a constitution right cannot be converted into a crime." - Miller v. U.S. 230 F 486 at 489.

405 "Once warnings have been given, if individual indicates in any manner, at any time prior to or during questioning, that he wishes to remain silent, interrogation must cease. ... Where rights secured by the Constitution are involved, there can be no rule-making or legislation which would abrogate them." - Ernesto A. Miranda v. State of Arizona, United States Supreme Court, decided June 13, 1966.

"There can be no sanction or penalty imposed upon one because of his exercise of Constitution rights." - Sherar vs. Cullen 481 F 2D 946, (1973).

*"The Constitutional privilege was intended to shield the guilty and imprudent, as well as the innocent and foresighted."* - Marchetti vs. United States, 390U.S. 39 at page 51.

410    *"The privilege is not limited to testimony, as ordinarily understood, but extends to every means by which one may be compelled to produce information which may incriminate."*

- Boyd vs. United States, Supra; Brown vs. Walerk, 161,U.S. 591; Distinguishing Hale vs. Henkel, 201 U.S. 43; Wilson vs. U.S. 221,U.S. 612; United Station vs. Sischo.262 U.S. 165; McCarthy vs Arndstein,266 U.S. 34; United States vs. Lombardo, 228 Fed.

415    980; United States vs. Dalton, 286 Fed 756; United States vs. Mulligan, 268 Fed 893; United Statesvs. Cohen Grocery Co., 225 U.S. 81; United States vs. Sherry, 294 Fed, 684

◆ **THE CONSTITUTION IS SUPERIOR TO ANY ORDINARY ACT OF THE LEGISLATURE**

*"If the courts are to regard the constitution; and the constitution is superior to any*

420    *ordinary act of the legislature; the constitution, and not such ordinary act, must govern the case to which they both apply. Those then who resist the principle that the constitution is to be considered, in court, as a paramount law, are reduced to the necessity of maintaining that courts must close their eyes on the constitution, and see only the law. This doctrine would subvert the very foundation of all written*

425    *constitutions. It would declare that an act, which, according to the principles and theory of our government, is entirely void, is yet, in practice, completely obligatory. It would declare, that if the legislature shall do what is expressly forbidden, such act, notwithstanding the express prohibition, is in reality effectual. It would be giving to the legislature a practical and real omnipotence with the same breath which professes to*

430    *restrict their powers within narrow limits. It is prescribing limits, and declaring that those limits may be passed at pleasure... Thus, the particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the constitution is void,*

and that courts, as well as other departments, are bound by that instrument... It is in  
435 these words: 'I do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich; and that I will faithfully and impartially discharge all the duties incumbent on me as according to the best of my abilities and understanding, agreeably to the constitution and laws of the United States.'

Why does a judge swear to discharge his duties agreeably to the constitution of the  
440 United States, if that constitution forms no rule for his government? if it is closed upon him and cannot be inspected by him. If such be the real state of things, this is worse than solemn mockery. To prescribe, or to take this oath, becomes equally a crime<sup>60</sup>."

"Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them<sup>61</sup>". ... "No judicial process, whatever form it  
445 may assume, can have any lawful authority outside of the limits of the jurisdiction of the court or judge by whom it is issued; and an attempt to enforce it beyond these boundaries is nothing less than lawless violence<sup>62</sup>." ... "Judges have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the Constitution<sup>63</sup>." ... "that statutes which  
450 would deprive a citizen of the rights of person or property without a regular trial, according to the course and usage of common law, would not be the law of the land<sup>64</sup>."

"It will be an evil day for American Liberty if the theory of a government outside supreme law finds lodgment in our constitutional jurisprudence. No higher duty rests upon this Court than to exert its full authority to prevent all violations of the principles  
455 of the Constitution<sup>65</sup>." "It is in these words: 'I do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich; and

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<sup>60</sup> MARBURY v. MADISON, 5 U.S. 137 (1803) 5 U.S. 137 (Cranch) 1803

<sup>61</sup> Miranda v. Arizona, 384 U.S. 436, 491

<sup>62</sup> Ableman v. Booth, 21 Howard 506 (1859)

<sup>63</sup> Cohen v. Virginia, (1821), 6 Wheat. 264 and U.S. v. Will, 449 U.S. 200

<sup>64</sup> Hoke vs. Henderson, 15, N.C.15,25 AM Dec 677

<sup>65</sup> 5 Downs v. Bidwell, 182 U.S. 244 (1901)

that I will faithfully and impartially discharge all the duties incumbent on me as according to the best of my abilities and understanding, agreeably to the constitution and laws of the United States.' Why does a judge swear to discharge his duties  
460 agreeably to the constitution of the United States, if that constitution forms no rule for his government? If it is closed upon him and cannot be inspected by him. If such be the real state of things, this is worse than solemn mockery. To prescribe, or to take this oath, becomes equally a crime<sup>66</sup>."

### **THE SUPREME LAW OF THE LAND US Constitution Article VI Paragraph 2**

465 This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

470 **US Constitution Article VI Paragraph 3** ...all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this Constitution;

All officers of the court are to obey the Law of the Land which includes lawful statutes, not repugnant statutes.

475

### **GENERAL ALLEGATIONS OF FACTS**

#### ***IRS Agents***

- 1) Defendants claimed enforcement authority over plaintiff(s) under 26 USC §7604.
- 2) Defendants have no Fiduciary Relationship with plaintiff(s).
- 480 3) Defendants have not filed any verified notice concerning a fiduciary relationship.

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<sup>66</sup> Marbury v. Madison, 5 U.S. 137 (1803) 5 U.S. 137 (Cranch) 1803

- 4) Defendants have not filed a verified Proof of Claim on plaintiff(s).
- 5) 26 USC §7604 provides for enforcement of summons under section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602.
- 6) Defendants have no proof of claim that under 26 USC §6420 referenced in §7604 plaintiff(s) is liable for tax on gasoline.
- 485
- 7) Defendants have no proof of claim that under 26 USC §4081 referenced in §6420 plaintiff(s) is liable for tax on fuel for removal, entry, or sale from any refinery, terminal or entry into the United States for consumption, use, or warehousing.
- 8) Defendants have no proof of claim that under 26 USC §6421 referenced in §7604 plaintiff(s) is not liable for tax on gasoline used for certain non-highway purposes, by local transit systems, or sold for certain exempt purposes.
- 490
- 9) Defendants have no proof of claim that under 26 USC §6427 referenced in §7604 plaintiff(s) is liable for tax for conducting a business for the sale of any fuel, tobacco products or firearms.
- 495
- 10) Defendants have no proof of claim that under 26 USC §4041 referenced in §6427 plaintiff(s) is liable for tax on diesel fuels, kerosene and certain liquids used as a fuel in aviation.
- 11) Defendants have no proof of claim that under 26 USC §7602 referenced in §7604 plaintiff(s) is liable for tax relating to tobacco products and cigarette papers and tubes.
- 500
- 12) Defendants have no proof of claim that plaintiff(s) is liable for tax.
- 13) Plaintiff(s)' never consented<sup>67</sup> to any agreements with the IRS.
- 14) Without authority under 26 USC §7604 defendants had no lawful authority to summons plaintiff(s)' financial records.

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<sup>67</sup> We know of no case in which a legislative act to transfer the property of A. to B. without his consent has ever been held a constitutional exercise of legislative power in any state in the Union. On the contrary, it has been constantly resisted as inconsistent with just principles by every judicial tribunal in which it has been attempted to be enforced;" Wilkinson v. Leland, 27 U.S. 627 (1829) ♦ "..., every man is independent of all laws, except those prescribed by nature. He is not bound by any institutions formed by his fellowman without his consent." Cruden v. Neale, 2 N.C. (1796) 2 S.E. 70:

- 505 15) Defendants provided no ability to plaintiff(s) to opt out of the collection and transfer of data from third parties.
- 16) Plaintiff(s) under Amendment IV has a right to be secure in their papers against unreasonable searches and seizures.
- 17) Defendants had no warrant supported by Oath when defendants seized plaintiff(s)'  
510 money from social security check.
- 18) Defendants had no warrant supported by Oath when they summoned plaintiff(s)' financial data from financial institutions.
- 19) Plaintiff(s) gave no authority to defendants to summons financial data from financial institutions.
- 515 20) Defendants authority to levy and restraint is found under 26 USC §6331.
- 21) Defendants have no proof that plaintiff(s) is an officer of the United States.
- 22) Defendants have no proof that plaintiff(s) is an employee of the United States.
- 23) Defendants have no proof that plaintiff(s) is an elected official of the United States.
- 24) Defendants have no proof that plaintiff(s) is an officer of the District of Columbia.
- 520 25) Defendants have no proof that plaintiff(s) is an employee of the District of Columbia.
- 26) Defendants have no proof that plaintiff(s) is an elected official of the District of Columbia.
- 27) Defendants have no proof that plaintiff(s) is an officer of any agency or  
525 instrumentality of the United States.
- 28) Defendants have no proof that plaintiff(s) is an employee of any agency or instrumentality of the United States.
- 29) Defendants have no proof that plaintiff(s) is an elected official of any agency or instrumentality of the United States.
- 530 30) Defendants have no proof that plaintiff(s) is an officer of any agency or instrumentality of the District of Columbia.

- 31) Defendants have no proof that plaintiff(s) is an employee of any agency or instrumentality of the District of Columbia.
- 32) Defendants have no proof that plaintiff(s) is an elected official of any agency or instrumentality of the District of Columbia.  
535
- 33) Defendants have no proof that defendant is a distiller or importer of distilled spirits under 26 USC §5005.
- 34) Defendants have no proof that defendant is a distiller or importer of distilled spirits under 26 USC §5005.  
540
- 35) Defendants have no proof that defendant is a person defined under 26 USC §7701 as an individual defined under 26 USC §7701 defined as a nonresident alien who is a taxpayer defined under 26 USC §7701.
- 36) Defendants acted without due process when they seize plaintiff(s)' money.
- 37) Defendants acted in rem when they seize plaintiff(s)' money.  
545
- 38) Defendants have assumed a Fiduciary Relationship with plaintiff(s) without filing permission from plaintiff(s).
- 39) Defendants have assumed a Fiduciary Relationship with plaintiff(s) without court appointment.
- 40) Defendants have no Fiduciary Relationship with plaintiff.  
550
- 41) Defendants did not file a lawful assessment, Proof of Claim.
- 42) Defendants did not file a Proof of Claim.
- 43) On 03-26-2012 defendants sent a Proposed Income Tax Assessment with consent form for the tax year 2009 in the amount of \$119,012.13, see exhibit 1.
- 44) Plaintiff(s) did not consent by signing and returning said consent form.
- 45) On 07-02-2012 defendants sent a Notice of Deficiency to plaintiff(s) in the amount of \$81,413.00 see exhibit 2.  
555

46) On 07-16-2012 plaintiff(s) sent to defendants a Notice and Demand that defendants did not answer, see exhibit 3 demanding that defendant not injure plaintiff(s) by lying and extorting by fraudulent means and correct their records.

560 47) On 08-15-2012 defendants response to Notice and Demand stating that they will answer within 45 days and did not, see exhibit 4.

48) On 12-17-2012 defendants CP22A Notice of \$124,762.43 due, see exhibit 5.

49) On 01-11-2013 plaintiff(s) sent to defendants a Second Notice and Demand that defendant did not answer, see exhibit 6.

565 50) On 01-21-2013 defendant sent another Notice CP503 of \$125,528.52 due, see exhibit 7.

51) On 01-25-2013 plaintiff(s) sent a third notice to defendants, not liable correct your records that defendants did not answer, see exhibit 8.

52) On 01-11-2013 plaintiff(s) sent a FOIA for IMF (Individual Master File), see 570 exhibit 9.

53) On 02-05-2013 plaintiff(s) received IMF file which is a coded file, not comprehensible without decoder but they did not send a decoder, see exhibit 10.

54) On 04-08-2013 defendant sent another Notice CP504 with intent to seize \$127,136.99, see exhibit 11.

575 55) On 04-10-2013 plaintiff(s) sent a fourth notice to defendants to correct records that defendant did not answer, see exhibit 12.

56) On 04-15-2013 defendants sent a Final Notice Intent to Levy for \$127,927.54, see exhibit 13.

57) Undated Received by hand delivery Notice of Federal Tax Lien and seizure, see 580 exhibit 14.

58) On 04-17-13 plaintiff(s) requested information, defendants did not answer, see exhibit 15.

59) On 04-22-2013 plaintiff(s) sent a fifth notice to defendants to correct records that defendant did not answer, see exhibit 17.

585 60) On 04-29-2013 defendant sent plaintiff(s) an attempt to collect taxes, see exhibit 18.

61) On 05-06-2013 plaintiff(s) sent letter for defendants to provide authority defendant did not answer, see exhibit 19.

590 62) On 05-07-2013 defendants sent plaintiff(s) a Notice of Federal Tax Liens for \$124,762.43, see exhibit 20.

63) On 05-07-2013 defendants sent plaintiff(s) a Notice of Federal Tax Liens for \$124,762.43, see exhibit 20.

64) On 05-15-2013 Summons to Rhinebeck Savings Bank and Hudson Valley Credit Union, see exhibit 21.

595 65) On 05-25-2013 plaintiff(s) sent Notice and Demand to Rhinebeck Savings Bank, see exhibit 22.

66) On 05-25-2013 plaintiff(s) sent Notice and Demand to Hudson Valley Credit Union, see exhibit 23.

67) On 05-25-2013 plaintiff(s) sent Notice and Demand to Sheriff Adrian H Anderson, 600 see exhibit 24.

68) On 05-28-2013 Plaintiff(s) filed action against defendants in N.Y.S. Supreme Court, Dutchess County. U.S. Attorney moved action to Federal Court Case# 15-CV-2175, defendants acquiesced, see intercourse papers previously filed.

69) On 06-27-2013 U.S. Attorney moved action to Federal Court Case# 15-CV-2175.

605 70) On 07-05-2013 a hearing was held, plaintiff(s) objected to the procedure that was not being held according to the rules of the common law, see intercourse papers previously filed.

71) On 07-15-2013 plaintiff(s) moved the court for default judgment, see paper previously filed.

- 610 72) On 08-07-2013 defendant acquiesced by sending plaintiff(s) a determination letter  
stating plaintiff(s) not required to file tax return, and a Certificate of Release of  
Lien dated 09-18-2013 for the amount of \$124,762.43, see exhibits 25 and 26.
- 73) On 09-02-2013 defendant sent plaintiff(s) a Notice CP21A claiming \$80.64 due for  
the 2009 tax year, see exhibit 27.
- 615 74) On 08-25-2014 defendant resurrected 2008 tax year by sending to plaintiff(s)  
Income Tax Examination Changes claiming \$2,599.15, see exhibit 28.
- 75) On 10-27-2014 defendant sent plaintiff(s) a "Determination of Deficiency"  
claiming \$1,507.00 in penalties which computes to more than 18 times the alleged  
\$80.64 Notice CP21A dated 09-02-2013, see exhibit 29.
- 620 76) On 11-08-2014 plaintiff(s) sent defendant a Sixth Notice and Demand that  
defendant ignored, see exhibit 30.
- 77) On 11-14-2014 defendants determination my Notice and Demand is frivolous  
without answering, see exhibit 31.
- 78) On 07-11-2016 defendants sent letter intent to seize assets fraudulently claiming  
625 \$2,745.05, see exhibit 32.
- 79) On 08-09-2016 plaintiff(s) reactivated case number 15-CV-2175 to stop  
harassment and extortion.
- 80) On 05-24-2017 defendants sent Notice of reduction of debt from \$482.00 to  
\$72.30, see exhibit 33.
- 630 81) On 06-13-2017 defendants sent request for meeting, see exhibit 34.
- 82) On 06-15-2017 plaintiff(s) sent letter declining defendants' 06-13-2017 letter  
requesting a meeting, see exhibit 35.
- 83) On 06-28-2017 defendants sent letter claiming debt of \$72.30, see exhibit 36.
- 84) On 07-26-2017 defendants sent Notice of reduction of debt from \$482.00 to:  
635 \$72.30, see exhibit 37.
- 85) On 08-01-2017 defendants sent request for meeting, see exhibit 38.

- 86) On 08-10-2017 plaintiff(s) sent letter denying defendants' 07-26-2017 letter concerning \$72.30 debt, see exhibit 39.
- 87) On 08-08-2017 plaintiff(s) sent letter declining defendants' 08-01-2017 letter requesting a meeting, see exhibit 40.
- 640
- 88) On 09-11-2017 defendants sent Summons to financial institutions without my consent or due process, see exhibit 41.
- 89) On 09-12-2017 defendants sent Status Report \$702.60 seized from SSI without due process, see exhibit 42.
- 645
- 90) Provisions of the IRS Code claiming enforcement under Sec §7604, see exhibit 43.
- 91) On 09-012-2017 defendants sent letter claiming I authorized third party contact, which I did not, see exhibit 44.
- 92) There exists no contract between plaintiff(s) and defendants, if so prove it.
- 93) There exists no liability<sup>68</sup> for plaintiff, if so prove it.
- 650
- 94) Defendants had no authority to probe personal papers and property, if so prove it.
- 95) There exists no reason for defendants to invade plaintiff(s)' peace<sup>69</sup> and privacy<sup>70</sup>.
- 96) Plaintiff(s) never gave consent<sup>71</sup> or jurisdiction to defendants to proceed against plaintiff(s).

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<sup>68</sup> 26 USC § 7806 - Construction of title (b) Arrangement and classification. No inference, implication, or presumption of legislative construction shall be drawn or made by reason of the location or grouping of any particular section or provision or portion of this title, nor shall any table of contents, table of cross references, or similar outline, analysis, or descriptive matter relating to the contents of this title be given any legal effect. The preceding sentence also applies to the side-notes and ancillary tables contained in the various prints of this Act before its enactment into law. \* The Internal Revenue Code is not the law. It only defines a contract between the IRS and the individual.

<sup>69</sup> "...the right to be let alone - the most comprehensive of rights and the right most valued by civilized men. To protect that right, every unjustifiable intrusion by the government upon the privacy of the individual, whatever the means employed, must be deemed a violation of the Fourth Amendment". [Olmstead v. U.S., 277 U.S. 438, 478 (1928)

<sup>70</sup> Amendment IV - The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. \* Right of privacy... [Boyd vs. U.S. 116, U.S. 616, 630, 29 LED 746, CT 524,1886].

<sup>71</sup> CONSENT. A concurrence of wills. Voluntarily yielding the will to the proposition of another; acquiescence or compliance therewith. Black's Law 4<sup>th</sup> ed.

97) Plaintiff(s)' never gave consent or jurisdiction to defendants to summons personal  
655 information, protected under the 4<sup>th</sup> Amendment, from any financial institutions or any other third parties.

98) Plaintiff(s) forbade defendants from summonsing information from third parties.

99) Plaintiff(s) have responded and corrected every issue of fact and law the defendants raised.  
660

100) Defendants had a duty to correct the record but instead chose to silent.

101) Defendants' acquiescence<sup>72</sup>.

102) 26 USC also applies to said territories' citizens residing abroad (in the states).

103) The IRS is not listed with New York State Department of State Division of Corporations, State Records & UCC as a corporation authorized to do business in  
665 New York State<sup>73</sup>, and therefore cannot initiate a (legal) action or special proceedings<sup>74</sup>.

104) The IRS is a instrumentality of the United States, the fiction.

105) The IRS being an instrumentality of the United States has a duty "not" to violate the unalienable rights of the people.

670 106) Plaintiff(s) notified defendants that plaintiff(s) are "people"<sup>75</sup> of New York.

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<sup>72</sup> **ACCEPTANCE, SILENCE IS ACQUIESCENCE** - Acceptance by silence. Acceptance of an offer not by explicit words but through the lack of an offeree's response in circumstances in which the relationship between the offeror and the offeree justifies both the offeror's expectation of a reply and the offeror's reasonable conclusion that the lack of one signals acceptance. \*Ordinarily, silence does not give rise to an acceptance of an offer, but this exception arises when the offeree has a duty to speak. [Black's 7th].

<sup>73</sup> **NY Code - Section 1301:** Authorization of foreign corporations (a) A foreign corporation shall not do business in this state until it has been authorized to do so as provided in this article. A foreign corporation may be authorized to do in this state any business which may be done lawfully in this state by a domestic corporation, to the extent that it is authorized to do such business in the jurisdiction of its incorporation, but no other business.; Id. at 103, 75 N.E. at 936. "The general rule is that, when a foreign corporation transacts some substantial part of its ordinary business in a state, continuous in character, it is doing, transacting, carrying on, or engaging in business therein, within the meaning of the statutes under consideration." 20 C.J.S. Corporations § 1829, at 46 (1940)

<sup>74</sup> **§1312. Actions or special proceedings by unauthorized foreign corporations.** (a) A foreign corporation doing business in this state without authority shall not maintain any action or special proceeding in this state unless and until such corporation has been authorized to do business in this state and it has paid to the state all fees and taxes imposed under the tax law or any related statute, as defined in section eighteen hundred of such law, as well as penalties and interest charges related thereto, accrued against the corporation. This prohibition shall apply to any successor in interest of such foreign corporation.

<sup>75</sup> **PEOPLE.** People are supreme, not the state. [Waring vs. the Mayor of Savannah, 60 Georgiaat 93]; The state cannot diminish rights of the people. [Hertado v. California, 100 US 516]; Preamble to the US and NY Constitutions - We the  
2017 ACTION AT LAW

107) Plaintiff(s) notified defendants that plaintiff(s) is domiciled<sup>76</sup> in New York, not a resident.

108) Plaintiff(s) notified defendants that plaintiff(s) are not liable under 26 USC 7806(b)<sup>77</sup>

675 109) The IRC is not law it only defines a contract between the IRS and an individual<sup>78</sup>

110) Plaintiff(s) have no contract with the IRS.

111) The IRS's authority to levy is under 26 USC §6331<sup>79</sup>.

680 112) Plaintiff(s) notified defendants that plaintiff(s) are not an employee of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, and therefore the IRS has no authority to levy plaintiff(s) property.

113) For the IRS to file a lien it must also file a verified declaration<sup>80</sup>.

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people ... do ordain and establish this Constitution...; ...at the Revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country, but they are sovereigns without subjects...with none to govern but themselves... [CHISHOLM v. GEORGIA (US) 2 Dall 419, 454, 1 L Ed 440, 455, 2 DALL (1793) pp471-472]: The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative. [Lansing v. Smith, 4 Wend. 9 (N.Y.) (1829), 21 Am. Dec. 89 10C Const. Law Sec. 298; 18 C Em.Dom. Sec. 3, 228; 37 C Nav.Wat. Sec. 219; Nuls Sec. 167; 48 C Wharves Sec. 3, 7.]

<sup>76</sup> **DOMICILE.** [Black's Law 4th edition, 1891] That place where a man has his true, fixed, and permanent home and principal establishment, and to which whenever he is absent he has the intention of returning. Kurilla v. Roth, 132 N.J.L. 213, 38 A.2d 862, 864; In re Stabile, 348 Pa. 587, 36 A.2d 451, 458; Shreveport Long Leaf Lumber Co. v. Wilson, D.C.La., 38 F.Supp. 629, 631, 632. Not for a mere special or temporary purse, but with the present intention of making a permanent home, for an unlimited or indefinite period. In re Garneau, 127 F. 677, 62 C.C.A. 403; In re Gilbert's Estate, 15 A.2d 111, 117, 118, 18 N.J. Misc. 540; In re Schultz' Estate, 316 Ill.App. 540, 45 N.E.2d 577, 582. Davis v. Davis, Ohio App., 57 N.E.2d 703, 704.

<sup>77</sup> 26 USC 7806(b) says that Title 26 is not the law. In other words, "No inference, implication or presumption of legislative construction shall be drawn or made by reason of the location or grouping of any particular section or provision or portion of this title..." N.B. "legislative construction" means "law."

<sup>78</sup> **Fourteenth Amendment Section 1.** - All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges ... " ♦ It is quite clear, then, that there is a citizenship of the United States, and a citizenship of a state, which are distinct from each other and which depend upon different characteristics or circumstances in the individual" ...but his rights of citizenship under one of these governments will be different from those he has under the other". [Slaughter-House Cases, 16 Wall. 74.]

<sup>79</sup> 26 USC § 6331; Levy and distraint: (a) Authority of Secretary.... Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official. ...

<sup>80</sup> 26 USC §6065 - Verification of returns: Except as otherwise provided by the Secretary, any return, declaration, statement, or other document required to be made under any provision of the internal revenue laws or regulations shall contain or be verified by a written declaration that it is made under the penalties of perjury.

114)Upon information and belief the IRS is a foreign corporate trust created in Philippines.

685 115)Upon information and belief the IRS is a foreign corporate trust created in Puerto Rico.

116)Upon information and belief the IRS and the BATF are one and the same organization, see 27 USC §201.

690 117)Upon information and belief the IRS operates through the Capital Trust Corporation, D.C., which is an off-shore entity.

118)Upon information and belief 26 USC applies only to the Philippines, Puerto Rico, District of Columbia, Virgin Islands, Guam, Northern Mariana Islands, territories, and insular possessions, for such items as narcotics, alcohol, tobacco, and firearms.

695 119)Defendants have acted in rem to seize plaintiff(s)' money without due process.

120)Defendants have assumed a Fiduciary Relationship with plaintiff(s) without filing (form 56)

121)Defendants did not file a lawful assessment, Proof of Claim (form 4490).

700 **GENERAL ALLEGATIONS OF FACTS**  
*Financial Agents*

- 1) Defendants shared plaintiff(s)' financial information with a third party.
- 2) Defendants shared plaintiff(s)' financial information with the IRS.
- 3) Safe Harbor Privacy Principles provide that Individuals must be informed that their data is being collected.
- 4) Safe Harbor Privacy Principles provide that Individuals must be informed about how their data will be used.
- 5) Defendants did not inform plaintiff(s) about how their data will be used.

- 6) Safe Harbor Privacy Principles provide that Individuals must have the ability to opt  
710 out of the collection.
- 7) Defendants have not informed plaintiff(s) that they have the ability to opt out of the  
collection.
- 8) Safe Harbor Privacy Principles provide that Individuals must have the ability to opt  
out of the forward transfer of the data to third parties.
- 715 9) Defendants have not informed plaintiff(s) that they have the ability to opt out of the  
forward transfer of the data to third parties.
- 10) Safe Harbor Privacy Principles state that Individuals have a right to recover  
damages for invasion of personal privacy.
- 720 11) Amendment IV "protects the unalienable right of the people to be secure in their  
papers.
- 12) Amendment IV requires that searches and seizures, shall not be violated without a  
Warrant, supported by Oath or affirmation.
- 13) Unalienable rights cannot be transferred.
- 14) Unalienable rights cannot be contracted away.

725 **IMF FILE** On February 5, 2013 plaintiff(s) received plaintiff(s) IMF File but  
defendants failed to send a decoder. The file is written in code and is totally  
incomprehensible. Criminals keep records in code, so as to prevent revealing evidence  
against them and not incriminate others, why does the IRS write in code? Why can't We  
the People, your boss, have a copy of the comprehensible information that its  
730 government is recording about them? See exhibit 10.

**SEIZURE WITHOUT DUE PROCESS** On May 24, 2017 Defendants sent a  
Notice of reduction of debt from \$482.00 to \$72.30 and requested a meeting twice  
plaintiff declined twice and denied notice of debt. Defendants sent summonses to six (6)  
financial institutions claiming that plaintiff(s) authorized third party summonses, see

735 exhibit 43, which plaintiff(s) did not; defendants sent said summonses without plaintiff(s) consent or due process. Defendants sent plaintiff a status report showing that the defendants have seized, under color of law, \$702.06 from plaintiff(s) social security without plaintiff(s) consent and without due process, see exhibits 36-42

**FISHING EXPEDITION** As plaintiff is preparing this action defendants sent  
740 plaintiff's spouse a request for a telephone meeting dated September 25, 2017 to discuss tax periods for 2014 and 2015, therefore plaintiffs' spouse has also become a plaintiff to this action. Plaintiff's spouse is a housewife since 1986 and has never held a job. For the past six or so years plaintiffs' spouse is disabled due to chronic pain and is unable to spend much time on her feet or sitting. Plaintiffs' spouse also cares for our twenty one  
745 year old daughter who is terminally ill. Defendants have plaintiffs' spouses' social security number and can search and discover that she has never held a job and therefore defendants have no cause to investigate her, this is an act of vengeance. It is a disgrace that plaintiffs' disabled spouse has become a target because the defendants are unable to find some large sums of money in order to continue their insidious fishing expedition in  
750 order to destroy a Liberty Group Organizer and patriot. The defendants should be ashamed of themselves. Let this action serve as the answer to their requested telephone interrogation, plaintiff(s) have an unalienable right to be left alone<sup>81</sup>, request denied.

## CAUSES OF ACTION

755 **COUNT 1: CONSPIRACY AGAINST RIGHTS:** Defendants under the color of law unlawfully and maliciously acted in concert conspiring to injure, oppress, threaten, and intimidate plaintiff(s) by claiming a debt and threatening to seize their property without

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<sup>81</sup> "...the right to be let alone the most comprehensive of rights and the right most valued by civilized men. To protect that right, every un-justifiable intrusion by the government upon the privacy of the individual, whatever the means employed, must be deemed a violation of the Fourth Amendment". [Olmstead v. U.S., 277 U.S. 438, 478 (1928)

due process thereby depriving plaintiff(s), who are people of New York of their unalienable right to be left alone<sup>82</sup>, unalienable right of due process and unalienable  
760 right to privacy in violation of 18 USC §241<sup>83</sup>, 18 USC §242<sup>84</sup> and 42 USC 1983<sup>85</sup>, 42  
USC 1985<sup>86</sup>. See exhibits 1 thru 44 and general allegations of facts that prove a  
methodical and relentless assault upon plaintiff(s) with no regard for plaintiff(s)  
unalienable rights and defendants' duty to serve and do no harm as they met every  
correspondence sent by plaintiff(s) with silence<sup>87</sup> to intentionally mislead plaintiff(s)  
765 when defendants had a duty to speak, which can only be equated with fraud, see general  
allegations of facts.

**COUNT 2: RICO<sup>88</sup>** Defendants conspired to injure, oppress, threaten, and intimidate  
plaintiffs in an organized fashion while claiming plaintiffs engaged in interstate  
commerce, which plaintiff(s) did not. Defendants participated directly in the conduct of  
770 such enterprising affairs through a pattern of racketeering activity to collect dubious  
debts. See exhibits 1 thru 44 and general allegations of facts, that prove a methodical

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<sup>82</sup> "...the right to be let alone the most comprehensive of rights and the right most valued by civilized men. To protect that right, every un-justifiable intrusion by the government upon the privacy of the individual, whatever the means employed, must be deemed a violation of the Fourth Amendment". [Olmstead v. U.S., 277 U.S. 438, 478 (1928)]

<sup>83</sup> 18 USC §241; CONSPIRACY AGAINST RIGHTS: If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State in the free exercise or enjoyment of any right they shall be fined under this title or imprisoned not more than ten years, or both

<sup>84</sup> 18 USC §242: DEPRIVATION OF RIGHTS UNDER COLOR OF LAW: Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State the deprivation of any rights shall be fined under this title or imprisoned not more than one year, or both;

<sup>85</sup> 42 USC 1983: CIVIL ACTION FOR DEPRIVATION OF RIGHTS: Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State subjects, or causes to be subjected, any person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law.

<sup>86</sup> 42 USC 1985: CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS: If two or more persons in any State or Territory conspire for the purpose of depriving, either directly or indirectly any persons rights the party so injured or deprived may have an action for the recovery of damages against any one or more of the conspirators.

<sup>87</sup> "Silence can only be equated with fraud where there is a legal or moral duty to speak, or where an inquiry left unanswered would be intentionally misleading. . ." U.S. v. Tweel, 550 F.2d 297, 299. See also U.S. v. Prudden, 424 F.2d 1021, 1032; Carmine v. Bowen, 64 A. 932

<sup>88</sup> RICO. 18 USC § 1962 - Prohibited activities (c) It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.

and relentless assault upon plaintiff(s), in an effort to confuse and intimidate in order to collect non-existing debts.

775 **COUNT 3 MAIL FRAUD<sup>89</sup>** Defendants via postal service devised and executed a deceptive scheme to defraud and extort a non-existing debt through monetizing and securitizing people as human chattel using the mail to accomplish their scheme in violation of 18 USC §1341; see exhibits 1 thru 44 and general allegations of facts that prove a methodical and relentless assault upon plaintiff(s) in an effort to collect non-existing debts using the postal service.

780 **COUNT 4: TRESPASS ON THE CASE<sup>90</sup>** Plaintiff(s) was injured by defendants who executed acts of extortion, denial of due process, unlawful summonses and an unlawful levy, see exhibits 1 thru 44 and general allegations of facts.

**COUNT 5: FRAUD<sup>91</sup>** Defendants in harmony over the course of years claimed numerous false statements in writing; see exhibits 1-44 containing material facts claiming that

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<sup>89</sup> **18 USC §1341 - Frauds through postal service:** Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined under this title or imprisoned not more than 20 years, or both. If the violation occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), or affects a financial institution, such person shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.

<sup>90</sup> **TRESPASS ON THE CASE.** The form of action, at common law, adapted to the recovery of damages for some injury resulting to a party from the wrongful act of another, unaccompanied by direct or immediate force, or which is the indirect or secondary consequence of defendant's act. Commonly called, by abbreviation, "Case." *Munal v. Brown*, C.C.Colo., 70 F. 968; *Nolan v. Railroad Co.*, 70 Conn. 159, 39 A. 115, 43 L.R.A. 305; *New York Life Ins. Co. v. Clay County*, 221 Iowa 966, 267 N.W. 79, 80.

<sup>91</sup> **FRAUD:** An intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or to surrender a legal right; a false representation of a matter of fact, whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives and is intended to deceive another so that he shall act upon it to his legal injury. *Brainerd Dispatch Newspaper Co. v. Crow Wing County*, 196 Minn. 194, 264 N.W. 779, 780. Any kind of artifice employed by one person to deceive another. *Goldstein v. Equitable Life Assur. Soc. of U. S.*, 160 Misc. 364, 289 N.Y.S. 1064, 1067.

785 plaintiff(s) are taxpayers while using US codes non-applicable to the plaintiff(s) in an effort to defraud. Defendants were fully informed concerning their dubious actions by more than six (6) Written Notices as they clearly intended the plaintiff(s) to act in reliance on the false statement, see exhibits 30, 17, 12, 8, 6, 3 and general allegations of facts. Plaintiff(s), like most people, at first believed that defendants were government  
790 agents with authority until plaintiff(s) read the codes being used to defraud. Plaintiff(s) suffered emotional and economic damages by relying on the false statement and then discovering the defendants' malicious intents.

**COUNT 6: NEGLIGENCE**<sup>92</sup> Defendants owed plaintiff(s) a legal duty to exercise reasonable care and instead defendants breached their duty of care and plaintiff(s)  
795 suffered damages as a direct result of the breach, see exhibits 1 thru 44 and general allegations of facts.

**COUNT 7: VINDICTIVE RECKLESSNESS;**<sup>93</sup> Defendant(s) acted with malice, the intent to injure by making false statements with a reckless disregard for whether they were true or false and with a total disregard for the consequence to others, see exhibits 1 thru 44  
800 and general allegations of facts.

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<sup>92</sup> **NEGLIGENCE:** The omission to do something which a reasonable man, guided by those ordinary considerations which ordinarily regulate human affairs, would do, or the doing of something which a reasonable and prudent man would not do. Schneeweisz v. Illinois Cent. R. Co., 196 Ill.App. 248, 253; Schneider v. C. H. Little Co., 184 Mich. 315, 151 N.W. 587, 588; Hulley v. Moosbrugger, 88 N.J.L. 161, 95 A. 1007, 1010, L.R.A. 1916C, 1203.

<sup>93</sup> **Exemplary damages:** Exemplary damages are damages on an increased scale, awarded to the plaintiff over and above what will barely compensate him for his property loss, where the wrong done to him was aggravated by circumstances of violence, oppression, malice, fraud, or wanton and wicked conduct on the part of the defendant, and are intended to solace the plaintiff for mental anguish, laceration of his feelings, shame, degradation, or other aggravations of the original wrong, or else to punish the defendant for his evil behavior or to make an example of him, for which reason they are also called "punitive" or "punitory" damages or "vindictive" damages, and (vulgarily) "smart-money." Springer v. Fuel Co., 196 Pa.St. 156, 46 A. 370; Scott v. Donald, 165 U.S. 58, 17 S.Ct. 265, 41 L.Ed. 632; Gillingham v. Railroad Co., 35 W.Va. 588, 14 S.E. 243, 14 L.R.A. 798; Murphy v. Hobbs, 7 Colo. 541, 5 P. 119, 49 Am.Rep. 366. It is said that the idea of punishment does not enter into the definition; the term being employed to mean an increased award in view of supposed aggravation of the injury to the feelings of plaintiff by the wanton or reckless act of defendant. Brause v. Brause, 190 Iowa 329, 177 N.W. 65, 70.

**COUNT 8 ABUSE OF PROCESS<sup>94</sup>** Defendants illegally perverted the legal system by wrongfully exercising US codes under the color of law against plaintiff. Defendants clearly had an ulterior motive exercising a perverted use of the system to extort money from the plaintiff(s) and thereby causing plaintiff(s) suffering as a direct result of their actions, see exhibits 1 thru 44 and general allegations of facts.

**COUNT 9 HARASSMENT<sup>95</sup>** Defendants have intentionally caused extreme pain and distress of mind upon the defendants with a relentless annoyance and harassment for almost six (6) years, see exhibits 1 thru 44 and general allegations of facts.

**COUNT 10 RIGHT TO BE SECURE IN PAPERS** (financial data)<sup>96</sup> Plaintiff(s) has an unalienable right protected by the 4<sup>th</sup> Amendment be secure in their papers, and effects, against unreasonable searches and seizures. Defendants have violated and damaged without contract or warrant supported by Oath, see exhibits 1 thru 44 and general allegations of facts.

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<sup>94</sup> **ABUSE OF PROCESS:** The gist of an action for "abuse of process" is improper use or perversion of process after it has been issued. Publix Drug Co. v. Breyer Ice Cream Co., 347 Pa. 346, 32 A.2d 413, 415. Holding of accused incommunicado before complying with warrant requiring accused to be taken before magistrate. People v. Crabb, 372 Ill. 347, 24 N.E.2d 46, 49. Warrant of arrest to coerce debtor. In re Williams, 233 Mo.App. 1174, 128 S.W.2d 1098, 1105. A malicious abuse of legal process occurs where the party employs it for some unlawful object, not the purpose which it is intended by the law to effect; in other words, a perversion of it. Lauzon v. Charroux, 18 R.I. 467, 28 A. 975. Vybiral v. Schildhauer, 265 N.W. 241, 244, 130 Neb. 433; Silverman v. Ufa Eastern Division Distribution, 236 N.Y.S. 18, 20, 135 Misc. 814. Thus, where the purpose of a prosecution for issuance of a check without funds was to collect a debt, the prosecution constituted an abuse of criminal process. Hotel Supply Co. v. Reid, 16 Ala.App. 563, 80 So. 137, 138. Regular and legitimate use of process, although with a bad intention, is not a malicious "abuse of process." Priest v. Union Agency, 174 Tenn. 304, 125 S. W.2d 142, 143. Action for "abuse of process" is distinguished from action for "malicious prosecution," in that action for abuse of process rests upon improper use of regularly issued process, while "malicious prosecution" has reference to wrong in issuance of process. Clikos v. Long, 231 Ala. 424, 165 So. 394, 396; McInnis v. Atlantic Inv. Corporation, 137 Or. 648, 4 P.2d 314, 315; Lobel v. Trade.

<sup>95</sup> **ANGUISH:** Extreme pain of body or mind; excruciating distress. Carson v. Thompson, Mo. App., 161 S.W.2d 995, 1000. Agony, but, as used in law, particularly mental suffering or distress of great intensity. Cook v. Railway Co., 19 Mo.App. 334. It is not synonymous with inconvenience, annoyance, or harassment. Western Union Telegraph Co. v. Stewart, Ala.App. 502, 79 So. 200, 201.

<sup>96</sup> **Amendment IV** The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

## DEFENDANTS ACQUIESCED<sup>97</sup>

**DEFENDANTS' 1<sup>ST</sup> DEFAULT** Defendants sent plaintiff(s) a proposed income tax assessment in the amount of \$119,012.13 with a consent form followed by a notice of deficiency in the amount of \$81,413.00. Plaintiff(s) answered defendants with a  
820 Notice and Demand dated July 12, 2012 correcting their error and declining their offer. Defendants who had a duty to speak chose silence<sup>98</sup> which can only be equated with fraud and thereby defendants acquiesced granting plaintiff the authority to determine for them the facts, defendants' duties, and the damages owed plaintiff(s) and agreeing enforcement of plaintiff(s) determination to be enforced in a court of record either ex  
825 parte or con parte, defendants thereby concurring and satisfied with the justness of the demand, and the process by which the demand shall be enforced, see exhibits 1-3.

**DEFENDANTS' 2<sup>ND</sup> DEFAULT** Defendants sent plaintiff(s) Notice CP22A claiming \$124,762.43 due defendants. Plaintiff(s) answered defendants with a Second Notice and Demand dated January 11, 2013 correcting their error and declining their  
830 offer. Defendants who had a duty to speak chose silence which can only be equated with fraud and thereby defendants acquiesced again granting plaintiff the authority to determine for them the facts, defendants' duties, and the damages owed plaintiff(s) and agreeing enforcement of plaintiff(s) determination to be enforced in a court of record either ex parte or con parte, defendants thereby concurring and satisfied with the

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<sup>97</sup> ACQUIESCED - consented by default, to agree. Acceptance, Silence is Acquiescence; Black's 7th - Acceptance by silence. Acceptance of an offer not by explicit words but through the lack of an offeree's response in circumstances in which the relationship between the offeror and the offeree justifies both the offeror's expectation of a reply and the offeror's reasonable conclusion that the lack of one signals acceptance. Ordinarily, silence does not give rise to an acceptance of an offer, but this exception arises when the offeree has a duty to speak.; ACQUIESCE, ESTOPPEL BY - Estoppel is a bar or impediment which precludes allegation or denial of a certain fact or state of facts, in consequence of a final adjudication of the matter in a court of law. It operates to put a party entitled to its benefits in same position as if the thing represented were true". May v. City of Kearney, 145 Neb 475, 17 N.W. 2d 448, 458." Black's Law Dictionary, 5th Ed. (1979), p. 494, Title "Estoppel.

<sup>98</sup> "Silence can only be equated with fraud where there is a legal or moral duty to speak, or where an inquiry left unanswered would be intentionally misleading. . ." U.S. v. Tweel, 550 F.2d 297, 299. See also U.S. v. Prudden, 424 F.2d 1021, 1032; Carmine v. Bowen, 64 A. 932

835 justness of the demand, and the process by which the demand shall be enforced, see exhibits 5 & 6.

**DEFENDANTS' 3<sup>RD</sup> DEFAULT** Defendants sent plaintiff(s) Notice CP503 claiming \$125,528.52 due defendants. Plaintiff(s) answered defendants with a Third Notice and Demand dated January 25, 2013 correcting their error and declining their  
840 offer. Defendants who had a duty to speak chose silence which can only be equated with fraud and thereby defendants acquiesced again granting plaintiff the authority to determine for them the facts, defendants' duties, and the damages owed plaintiff(s) previously agreeing enforcement of plaintiff(s) determination to be enforced in a court of record either ex parte or con parte, defendants thereby concurring and satisfied with  
845 the justness of the demand, and the process by which the demand shall be enforced, see exhibits 7 & 8.

**DEFENDANTS' 4<sup>TH</sup> DEFAULT** Defendants sent plaintiff(s) Notice CP504 Intent to seize claiming \$127,136.99 due defendants. Plaintiff(s) answered defendants with a Forth Notice and Demand dated April 10, 2013 correcting their error and declining their  
850 offer. Defendants who had a duty to speak chose silence which can only be equated with fraud and thereby defendants acquiesced again granting plaintiff the authority to determine for them the facts, defendants' duties, and the damages owed plaintiff(s) previously agreeing enforcement of plaintiff(s) determination to be enforced in a court of record either ex parte or con parte, defendants thereby concurring and satisfied with  
855 the justness of the demand, and the process by which the demand shall be enforced, see exhibits 11 & 12.

**DEFENDANTS' 5<sup>TH</sup> DEFAULT** Defendants sent plaintiff(s) Final Notice with intent to levy \$127,927.54, Notice of Federal Tax Lien and Seizure, Request for information from Chase Mortgage and Final Notice Intent to Levy \$127,927.54.  
860 Plaintiff(s) answered defendants with a Fifth Notice dated April 22, 2013 correcting

their error and declining their offer. Defendants who had a duty to speak chose silence which can only be equated with fraud and thereby defendants acquiesced again granting plaintiff the authority to determine for them the facts, defendants' duties, and the damages owed plaintiff(s) previously agreeing enforcement of plaintiff(s) determination  
865 to be enforced in a court of record either ex parte or con parte, defendants thereby concurring and satisfied with the justness of the demand, and the process by which the demand shall be enforced, see exhibits 13 thru 17.

**DEFENDANTS' 6<sup>TH</sup> DEFAULT** Defendants Attempted to collect taxes sent plaintiff(s) a Notice of Federal Tax Liens in the amount of \$124,762.43. Plaintiff(s)  
870 answered defendants by filing an Action on May 28, 2013 in the New York State Supreme Court, Dutchess County, after which the United States Attorney moved to Fed. Ct. Case# 15-CV-2175. Defendants who had a duty to speak chose silence which can only be equated with fraud and thereby defendants acquiesced again. As plaintiff was preparing default judgment paper, defendants sent plaintiff a determination letter stating  
875 plaintiff was not required to file tax return and a Certificate of Release of Lien in the amount of \$124,762.43. Plaintiff satisfied with the defendants good faith act decided to not pursue damages, see exhibits 18-20, 25 & 26.

**DEFENDANTS' 7<sup>TH</sup> DEFAULT** In the end of 2014 defendants sent plaintiff(s) an income tax examination changes in the amount of \$2,599.15 and a determination of  
880 deficiency in the amount of \$1,507.00. Plaintiff(s) answered defendants with a Notice and Demand dated November 8, 2014 correcting their error and declining their offer. Defendants responded on November 14, 2014 claiming plaintiff(s) Notice and Demand frivolous without addressing the contents of the Notice and Demand. Defendants who had a duty to speak chose silence which can only be equated with fraud and thereby  
885 defendants acquiesced granting plaintiff the authority to determine for them the facts, defendants' duties, and the damages owed plaintiff(s) and agreeing enforcement of

plaintiff(s) determination to be enforced in a court of record either ex parte or con parte, defendants thereby concurring and satisfied with the justness of the demand, and the process by which the demand shall be enforced, see exhibits 28-31.

- 890 **HARMED BY GOVERNMENT** - "The innocent individual who is harmed by an abuse of governmental authority is assured that he will be compensated for his injury." Owen v. City of Independence "The Government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation if the laws furnish no remedy for the violation of a vested legal right." -  
895 Marbury v. Madison, 5 U.S. 137 (1803)

"There must be a remedy for every injury William Blackstone - a legal maxim - Every right when withheld must have a remedy, and every injury its proper redress "... In the third volume of his Commentaries, page 23, Blackstone states two cases in which a remedy is afforded by mere operation of law. "In all other cases," he says, it is a general and indisputable rule that where there is a legal right, there is also a legal remedy by suit or action at law whenever that right is invaded. And afterwards, page 109 of the same volume, he says, I am next to consider such injuries as are cognizable by the Courts of common law. And herein I shall for the present only remark that all possible injuries whatsoever that did not fall within the exclusive cognizance of either 900 the ecclesiastical, military, or maritime tribunals are, for that very reason, within the cognizance of the common law courts of justice, for it is a settled and invariable principle in the laws of England that every right, when withheld, must have a remedy, and every injury its proper redress" ... 5 U.S. 137, Marbury v. Madison.

910

**PROPOSAL:** If the IRS restores plaintiff(s), before IRS and IRS defendants default plaintiffs will withdraw case against them.

- ❖ IRS shall return all monies, \$839.80 presently calculated, stolen from John Vidurek's Social Security check and pay restitution in the amount of \$3,357.20 (4 fold restitution<sup>99</sup> (\$839.80x4)) for a total of \$4,197.00.
- ❖ IRS will send a letter with a wet ink signature to plaintiff(s) precisely stating the following statements:
- a. John and Kimberly Vidurek are not liable for enforcement of summons under 26 U.S. Code §7604, 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602.
  - b. John and Kimberly Vidurek are not liable for tax under 26 USC §4081 and §4041
  - c. John and Kimberly Vidurek are not persons, individuals or taxpayer as defined under 26 USC §5005, §5001 and §7701.
  - d. Any future lawful grievance the IRS might have with plaintiff, the IRS will serve John Vidurek or Kimberly Vidurek with a filed verified proof of claim.
  - e. Any disagreements concerning the aforesaid claim that cannot be settled between the parties will be settled in an Article III Court of Record, not a tax court.
  - f. IRS will cease from all summonses upon John Vidurek or Kimberly Vidurek's third parties without written permission.
  - g. Any future dealing between John Vidurek or Kimberly Vidurek will be done in writing with full disclosure with the intent of communicating a solution.

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<sup>99</sup> Luke 19:1-10 He entered Jericho and was passing through. And behold, there was a man named Zacchaeus. He was a chief tax collector and was rich. And he was seeking to see who Jesus was, but on account of the crowd he could not, because he was small in stature. So he ran on ahead and climbed up into <sup>the</sup>a sycamore tree to see him, for he was about to pass that way. And when Jesus came to the place, he looked up and said to him, "Zacchaeus, hurry and come down, for I must stay at your house today." So he hurried and came down and received him joyfully. And when they saw it, they all grumbled, "He has gone in to be the guest of a man who is a sinner." And Zacchaeus stood and said to the Lord, "Behold, Lord, the half of my goods I give to the poor. And if I have defrauded anyone of anything, I restore it <sup>four</sup>fold." And Jesus said to him, "Today salvation has come to this house, since <sup>he</sup>he also is a son of Abraham. For the Son of Man came to seek and to save the lost."

If defendants refuse to perform as aforesaid; plaintiff(s) will move this court upon default or judgment as follows:

935

**WHEREFORE;** Plaintiff(s) moves this court of record as follows:

- ❖ IRS will return monies and pay restitution, as calculated above totaling \$4,197.00.
- ❖ \$ 2,745.05<sup>100</sup> for each violation of plaintiff(s) unalienable rights

x 7 Unalienable Rights violated<sup>101</sup>

940 \$19,153.35 from each of the following defendant: John Koskinen, Brenda Dial, John/Jane Doe, J. Melendez, Maryellen Benecke, Linda Piack and Jeanette Willet

- ❖ Defendants through default or judgment agree as follows:
  - a. John and Kimberly Vidurek are not liable for enforcement of summons under 26 U.S. Code §7604, 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602.
  - b. John and Kimberly Vidurek are not liable for tax under 26 USC §4081 and §4041
  - c. John and Kimberly Vidurek are not persons, individuals or taxpayer defined under 26 USC §5005, §5001 and §7701.
  - d. Any future lawful grievance the IRS might have with plaintiff, the IRS will serve John Vidurek or Kimberly Vidurek with a verified proof of claim, filed in the federal district.
  - e. Any disagreements concerning the aforesaid claim that cannot be settled between the parties will be settled in an Article III Court of Record, not a tax court.

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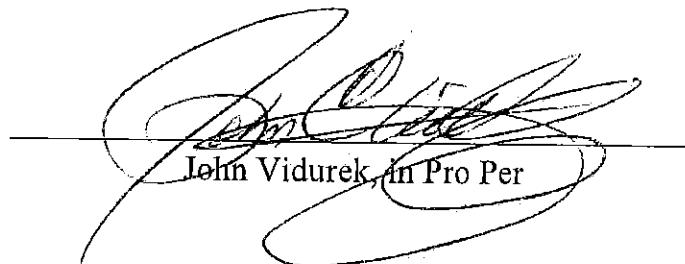
<sup>100</sup> Amount of fraudulent debt, see exhibit 32

<sup>101</sup> **7 Rights violated:** Unalienable Right of due process, see footnotes 5 & 7; Unalienable Right to be secure in papers, see footnote 38; Unalienable right of safe harbor, see footnote 29; Unalienable Right to be silent, see footnote 39; Unalienable Right of Privacy, see footnote 40; Unalienable Right not to be deprive of property, see footnote 5; Unalienable Right to be left alone, see footnote 62

- 955        f. IRS will cease from all summonses upon John Vidurek or Kimberly Vidurek's third parties without written permission.  
g. Any future dealing between John Vidurek or Kimberly Vidurek will be done in writing with full disclosure with the intent of communicating a solution.

960 Further, plaintiff(s) moves this court of record as follows: Defendants Daniel H. Schulman, Guy Chiarello, Mary Madden, Michael J. Quinn and Jack Dorsey shall pay \$10,000 each for violating the Safe Harbor Privacy Principles. If said defendants did not share plaintiff(s)' financial information with the IRS there is no claim against them.

SEAL

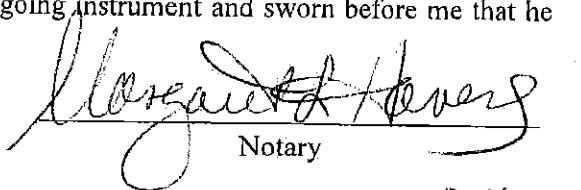
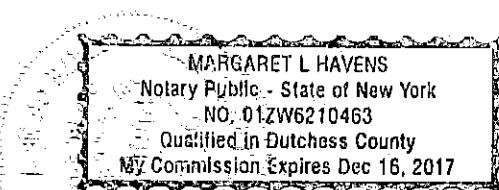


John Vidurek, in Pro Per

NOTARY

970        New York State, Dutchess County on this 3 day of <sup>October</sup> September 2017 before me  
Margaret L. Havens, the subscriber, personally appeared John Vidurek to me known to  
be the living man describe in and who executed the forgoing instrument and sworn before me that he  
executed the same as his free will act and deed.

975        (Notary Seal)



Notary

My commission expires: 12-16-17